The American Labor Legislation Review

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"An Eventful Quarter"

THE three months just ended have been eventful ones for the program of the American Association for Labor Legislation.

Striking of course has been the universal interest in unemployment. Especially encouraging is the passage by the United States Senate of the three Wagner bills (p. 125) —for better employment statistics, better employment bureaus and better planning of public works. These bills now await action in the House where all three should receive prompt consideration.

The passage by the New York legislature of the old age protection measure, which was signed by Governor Roosevelt on April 10 (p. 209), gives both prestige and substance to this movement in the East. Previous action had been largely in the West. Other states, in goodly number, should adopt old age pension legislation in 1931. Failure in New York of adequate compensation for all victims of occupational diseases and postponement of much-needed state regulation of fee-charging employment agencies, owing to repudiation of pledges by leaders of the majority party, necessitates renewed campaigns another year.

The continuance for another three years of federal-state cooperation in the rehabilitation and vocational retraining of industrial cripples, appears assured by Congress after some months of delay. This work is on the whole well administered, and only four states (Delaware, Vermont, Kansas and Washington) have failed to recognize their local responsibility.

Disappointing was the failure of Mississippi and South Carolina to adopt workmen's compensation but the latter state has revived hope by creating an official committee to study the subject.

Outstanding in dramatic interest at Washington was the impetus given by the United States Senate to safeguarding the right of voluntary organization. The denial of employment on account of membership in a trade union imperils the liberty of others who may at some future time desire to join fraternal, civic or religious associations for their common benefit. Such restriction is contrary to public policy. And the rejection by the Senate of an appointment to the Supreme Court (p. 181) served to dramatize for the whole country the dangers involved in the obnoxious "yellow dog" contract.

Interest is also very evidently on the increase in respect to labor law enforcement. The several articles and reports on labor law administration in this issue of the REVIEW are merely suggestive of what is to follow on this supremely important but sadly neglected subject. It is only by giving persistent attention to the problem that public understanding can be developed. One year ago we were obliged to protest against the purely political appointment by President Hoover of an unqualified man as member of the United States Employees' Compensation Commission, and we deeply regret that after twelve months we find this public servant has not been doing his work.

At the mid-year meeting of the American Association for Labor Legislation at Boston—especially during the mornings of June 9, 11 and 13—there will be opportunity to discuss progress and prospects of other issues in this field. Much encouragement may be found in the successful activities of an eventful quarter just ended.

JOHN B. ANDREWS, *Secretary*

American Association for Labor Legislation

LEGISLATIVE NOTES

THE American Association for Labor Legislation will hold its mid-year meeting in connection with the National Conference of Social Work, at Boston, June 8-14. The program deals especially with unemployment, industrial insurance and old age pensions.

◇

JOHN E. EDGERTON, President of the National Association of Manufacturers, acknowledges that there has been "a shading off in employment."

◇

BECAUSE Alabama and other states in the Southeast have no **boiler inspection laws,** they have become the dumping ground for boilers which have been condemned as unfit for service in other sections of the country, according to R. M. Thigpen, director of safety of the Alabama State Insurance Bureau. This is the history of practically all high pressure boilers that explode in Alabama, he declares. A standard boiler inspection code is to be proposed at the next legislative session.

◇

MARK DALY, editor of the *Monitor,* published by Associated Industries of New York State, advocated state labor legislation for the **five-day week** while speaking at a public hearing at Albany, March 18.

◇

"WE have insurance against all kinds of misfortune except unemployment. For unemployment we have only charity."—Cincinnati (Ohio) *Post.*

◇

THE work of **demolishing buildings** will henceforth come under the New York Labor Law. This means that the same safeguards that now apply to the construction of a building will also surround this most hazardous industry.

THE 1930 Virginia legislature authorized the creation of a legislative commission of five members to study the advisability of creating a **state fund** for workmen's compensation insurance.

◇

THE 1929 report of the **New York State Fund** shows written premiums of $9,200,642. This volume was not only a gain of ten per cent over 1928 but was the largest annual total written since the Fund was created.

◇

As a result of one death and several serious disabilities probably caused by **benzol poisoning,** Rhode Island officials have demanded that the workmen's compensation law be amended to provide compensation for occupational diseases.

◇

SINCE last summer the Brooklyn Navy Yard has laid off 1,156 men and 215 during March. Suggesting that repair work could have been found to keep the men on the payroll, the *New York Telegram* asks: "If the government itself doesn't make sacrifices to **keep men in work,** what private corporation can be expected to feel moral obligations in that direction?"

◇

"BUSINESS is getting better and better, according to all reports. This is particularly true for those who make a business of making reports."—*San Diego Union.*

◇

MAYOR BROENING of Baltimore proposes to appoint an **employment stabilization commission** comprising more than a score of the city's industrial and social service leaders, and he has asked for a $10,000 appropriation to start its work. This action was recommended to him more than a year ago by his Committee on Unemployment, but at that time Mayor Broening decided to "let Mr. Hoover do it." (See "Let Mr. Hoover Do It," AMERICAN LABOR LEGISLATION REVIEW, Vol. XIX, No. 1, March, 1929, pp. 3, 4.)

◇

THE New York **one-day-of-rest-in-seven** law has been extended to protect motion picture operators.

◇

THE *Nation* of February 26 calls upon the Federal Government to make "an absolutely honest attempt to learn and make public the facts, followed in turn by a further honest attempt to develop a genuine national program to cope with the steadily mounting dangers of unemployment." It declares that among the materials at hand is the **program of the American Association for Labor Legislation.** On April 2, the *Nation* again urged the adoption of this constructive legislative program, as embodied in the three Wagner bills.

At the recent session of the Kentucky General Assembly, a bill to create within the Department of Labor an **industrial safety board** with rule-making power was unanimously approved by the House. The Senate, however, failed to give this widely accepted method of administering safety regulations the necessary support.

◇

"The question remains: What will the President and Congress do now to prevent recurrence of this **serious depression** next winter? The obvious first step is immediate passage of the Wagner bills for federal employment statistics and federal employment exchanges and for long-range planning of public works."—Oklahoma City *News*.

◇

The country is faced with the possibility of revolution unless the **unemployment** situation is met, asserted William Green, President of the American Federation of Labor, before the Senate Commerce Committee when demanding enactment of the three Wagner bills to alleviate unemployment. "One worker out of every four in trade and industry was jobless in February," said President Green. "Total wage payments to industrial workers have dropped 14 per cent since the stock market decline, and the volume of the railroad workers fell 12 per cent. We estimate that 3,700,000 wage-earners were out of work in February, 1930."

◇

Frank McGinley Phillips, of George Washington University, for six years chief of the Division of Statistics of the Interior Department Bureau of Education has been transferred to the position of chief statistician of the United States Employees' Compensation Commission.

◇

The drive against employers who fail to provide insurance under **workmen's compensation** laws has resulted in the fining of another Pennsylvania employer. And a non-insured employer in New Jersey has been held in $500 bail for the grand jury.

◇

In the case of Suess v. Arrowhead Steel Products Company, the Minnesota Supreme Court held on March 28 that an employer who has **violated a safety statute** cannot plead the defense of assumption of risk in an action for injury caused by the violation. This opinion overturns previous decisions of the court on the ground of changing conditions in industrial relations.

◇

Commenting on abuses practiced by some fee-charging **employment agencies** as disclosed by the American Association for Labor Legislation's

digest of hearings before the New York Industrial Survey Commission, the *New Republic* of April 9 asks if it would not be desirable for the government to build up a comprehensive system of public employment agencies, "so efficient and honest that it would put the offending private agencies out of business."

◇

"In the opinion of a lecturer, many of our present-day politicians could be placed beside the most famous statesmen of history. The trouble is that they aren't."—*The Passing Show.*

◇

"For the purpose of improving the state **public employment offices**, and cooperating with the federal authorities in an intelligent long-time employment program," the New York legislature has authorized the state industrial commissioner to make a "thorough-going, impartial and objective study" of state employment offices. The commissioner is directed to appoint an advisory committee, which shall include the director of the United States employment service, to assist in this study.

◇

In 1929, the written premiums of the **New York State compensation fund** amounted to $9,200,642, an increase of ten per cent over the previous year. As the fund's rate level is 15 per cent below that of commercial carriers, the amount would have been more than $10,800,000 if written at full rates. The operating expense ratio was less than 17 per cent of the earned premiums.

◇

A permanent committee for the prevention and relief of **unemployment** in Lansing, Michigan, has been urged by Professor William Haber of the Michigan State College. "The most unfortunate aspect of the entire question of unemployment lies in the fact that, although the situation is a recurring one, little advance preparation for its coming is ever made," stated Professor Haber. "Relief and stabilization programs are emergency arrangements begun too late to be of any great value to the workers affected, and abandoned immediately after the situation is improved. The next depression finds the community no better prepared and the same feverish interest and activity takes place with the same result, namely, the abandonment of the plan when the situation shows any improvement." What is needed is "a *permanent* institution in the community, studying and planning the two phases of its task, prevention and relief."

◇

Possibilities of **mine accident prevention** are indicated by the experience of the Peabody Coal Company, Mine No. 12, at West Frankfort, Illinois, which operated more than five years without a fatal accident, until, on March 20, John Howe, 79, died as the result of an injury, says the Chicago *Tribune.*

THE Family Welfare Association of America recently sent a **questionnaire on unemployment** to its 234 member agencies in one hundred cities. It was found that in January of this year 54 agencies had to spend twice as much for relief work as in January, 1929; and in 32 cities the number of families needing help because of the wage-earner's inability to find work was 200 per cent greater. In four middle western cities "it is estimated that between 55 and 60 per cent of the relief funds for January, 1930, went for unemployment relief. There was never, in the history of the society, a month like January, 1930." And these figures, states the report, do not give an adequate picture of the situation as many of the dependent families are being referred to public departments.

◇

A FURTHER cost of **unemployment** has been stressed by Dr. J. G. William Greeff, Commissioner of New York City Hospitals. Unemployment, said Dr. Greeff, cuts down the normal food supply of thousands who further waste their energies **walking the streets in search of work or food.** "Many of the weaker ones of this army," he said, "are not able to stand the gaff. Some drop on the streets. Others are found unconscious in their rooms. When they get into plights as bad as those they immediately become candidates for hospital beds."

◇

"EMPLOYERS, quite generally, have fought all attempts to strengthen the occupational disease clauses of workmen's compensation acts, but if justice is to prevail **all occupational diseases must be compensable,** despite this opposition. Every industry should be willing to bear the expenses of any and all persons suffering physical injury as a result of working in that industry."—New Haven (Conn.) *Times-Union.*

◇

ON March 31, President Hoover signed the Elliot-Keyes bill increasing by $230,000,000 the federal appropriation for **public building construction** throughout the country. This makes a total of $550,000,000 now authorized by Congress for this purpose, of which, however, only about $50,000,000 is to be spent annually. On April 4, the President signed the Downell-Phipps bill, which raised from $75,000,000 to $125,000,000 the annual contribution of the Federal Government to the states for highway construction during 1930 and the three succeeding fiscal years. These two laws offer a beginning of a substantial basis for a long-range public works program to stabilize employment.

◇

A SURVEY of the 313 persons rehabilitated last year in Michigan under the Federal-State **vocational rehabilitation** plan reveals that the beginning wage of 62 per cent of the handicapped was higher than the maximum wage received previous to injury. During the eight years of the state's

experience under the act, 10,141 persons have applied for rehabilitation, about two-thirds of whom were successfully established in industry without additional training; the remaining 2,130 received instruction in a trade or profession, and then made independent, some after being equipped with artificial appliances. "This is not charity," states John Lee, director of the rehabilitation division. "It is the duty of the state."

◇

A 38-PAGE bibliography on **industrial fatigue** and allied subjects, covering chiefly material published in English from January, 1921, through May, 1929, has been issued by the Committee for the Study of Industrial Fatigue of the American Public Health Association.

◇

OF the 350 men employed in constructing the 30-story William Taylor Hotel, San Francisco, not one lost his life or suffered permanent injury from the time operations started until the doors were thrown open to the public. The contractors, builders and management coöperated to the fullest extent with the Industrial Accident Commission. A safety engineer with two assistants and authority to employ additional help if necessary was engaged by the contractor to be on the job each minute. An extra elevator, equipped with safety devices, was installed at the beginning of construction for the sole purpose of carrying workmen to upper floors. Which proves that it can be done!

◇

A ROCHESTER **employment agency** has been temporarily closed for using employment want ads to draw $2 registration fees from customers, many of whom got nothing in return, not even a receipt. In comment, the Rochester *Times-Union* states: "When they take money from the jobless, as shown in the complaints, and send them on a wild-goose chase after a purely imaginative job, they deserve all the law can give them." Unfortunately, the law can't "give them" much, because the New York legislature failed again this year to pass the official commission Gates-Cornaire bill providing for adequate regulation of private fee-charging employment agencies.

◇

DECLARING that "the denial of opportunity to work to any man is the concern of all," Governor Roosevelt of New York, on March 30, announced the appointment of a committee representing business and labor to investigate and develop plans for industrial stabilization and the prevention of **unemployment.** The committee was directed "to lay before the employers and the workers of this state every worthwhile and significant practice for the stabilization of employment which has come within their range of knowledge and to work out with the business men of the state such practical methods as can be devised for the future control of unemployment." The members of the committee are Henry Bruere,

Maxwell S. Wheeler, John Sullivan, Henry H. Stebbins, Jr., Frances Perkins and Ernest G. Draper, a member of the Executive Committee of the American Association for Labor Legislation. In a preliminary report issued on April 21, the committee urged long-range planning of public works and an improved public employment service.

◇

THE Welfare Council of New York City and seven other social agencies have undertaken a study of **homeless men** and present methods of handling them. An attempt will be made to learn who these men are, why they have become homeless and what methods of prevention and rehabilitation may be applied. An earlier study of the homeless man was published by the American Association for Labor Legislation under the title "The Men We Lodge." (See the AMERICAN LABOR LEGISLATION REVIEW, Vol. V, No. 3, March, 1915.)

◇

A SIX instead of a **seven-day week** and a lower gasoline output in the oil refining industry has been urged by the Federal Oil Conservation Board, composed of the Secretaries of the Interior, War, Navy and Commerce. In answer, the companies refuse to abandon the seven-day week but are reducing weekly runs of crude oil one-seventh in volume. In the oil industry the seven-day work week is particularly prevalent.

◇

AN ex-convict was recently sentenced in New York to ten years in Sing Sing for having defrauded a chauffeur of $150 by promising to get him a position as a motion picture operator at a salary of $150 per week. The convict worked through advertisements in the newspapers and his arrest followed the receipt of one-hundred complaints from working people. In passing sentence the court said: "You are one of the meanest thieves that has operated in this city in many years."

◇

OVER 13 per cent of the blind population of the United States is blind as a result of **industrial accidents,** three-fourths of which are preventable, according to an article in *Health,* March, 1930. Rigid factory inspection for illumination in accordance with some standard safety code; good illumination; careful placing of desks and machines; additional penalty for eye injuries because of failure to provide adequate safety measures; safety posters; and clean windows and properly white-washed walls are urged as preventive measures.

◇

SIX amendments to New York City's sanitary code and code of ordinances have been suggested in the city's campaign to abate **noise nuisances** by Edward Fisher Brown, managing director of the Commission of Noise Abatement of New York. Health Commissioner Wynne has approved the amendments and said that he would work for their passage.

State Labor Commissioner Charles R. Blunt, of New Jersey, has secured the appointment of a committee of insurance, medical, legal, industrial and labor representatives to assist in stamping out the activities of "ambulance chasing" lawyers and doctors, which, he asserts have lately become a menace to the administration of the state's workmen's compensation law. Amendments to the compensation bureau's rules made at the suggestion of the State Bar Association have failed to remedy the abuses which are prevalent, Commissioner Blunt declares.

◇

That there is no difference between a wage lien on a building and a material man's claims for payment for supplies was the recent decision of the Arkansas State Supreme Court. Although in most states it is accepted that loss of wages is of greater importance than loss of an account, the Arkansas court holds that neither one should have priority.

◇

"As we analyze the income-tax figures, the number of millionaires showed a great increase, but the way non-millionaires increased was practically scandalous."—*Howard Brubaker in the New Yorker.*

◇

Writing in the *Saturday Evening Post* of February 8, on "Is Anything Wrong With England?" Philip Gibbs says: "When the industrial age arrived, smug-faced manufacturers with side whiskers—and a belief in God—created a new system of slavery in their factories compared with which the lives of negroes on Virginia plantations were a seventh heaven."

◇

A bill introduced in the Massachusetts legislature provided for an investigation of concerns which defraud unemployed workers by offering them jobs if they will buy stock in the company, only to discharge them after a few months. At hearings on this bill, it was charged that companies are being organized in Massachusetts for the primary purpose of thus swindling workers of their savings and wages.

◇

"With unemployment what it is, we call it downright unpatriotic of those New York banks to merge and throw thousands of vice-presidents out of work."—*Judge.*

◇

"Years from now one of our pleasantest recollections of this tariff debate will be Mr. Smoot trying to prove that streamers of fly-paper are hung from kitchen ceilings just as ornaments."—*Detroit News.*

◇

"In making the business men the dominant and sole class in America, that country is making the experiment of resting her civilization on the ideas of business men."—*James Truslow Adams.*

Senate Passes Unemployment Bills

IN the midst of one of the worst industrial depressions this country has experienced, causing great distress among working people, the Senate Committee on Commerce held hearings on the three Wagner unemployment bills,[1] reported them with unanimous approval, and quickly secured their passage in the Senate.

This action by the Senate was long overdue. It came after years of constant educational effort by the American Association for Labor Legislation and other organizations interested in securing an intelligent federal program on unemployment. A long-range plan of public works construction, an adequate federal-state system of public employment offices, and improved statistics on unemployment are among the "Standard Recommendations" which were first issued by the Association for Labor Legislation in 1915 and which, since that time, have formed the basis of the Association's unemployment program. Moreover, during the last ten years these measures have been recommended in practically every comprehensive study of the methods by which the Federal Government may help to relieve unemployment.[2]

Favorable action in the Senate came after hearings before the Committee on Commerce at which was stressed the urgent need for better federal provisions. State Industrial Commissioner Frances Perkins of New York emphasized the importance of intelligent advance planning by the Federal Government. She also declared that an adequate federal-state employment service would be "highly important to all industrial states," because it would provide the interstate clearing house which is essential to efficient state employment services. John B. Andrews, Secretary of the American Association for Labor Legislation, traced the history of the proposed legislation. He pointed out that although legislation had been repeatedly recommended by official and semi-official investigating committees, Congress had so far neglected to act. William Green, president of the American Federation of Labor, told the Committee that organized labor strongly favored the Wagner bills. The only

[1] See "Three Unemployment Bills," AMERICAN LABOR LEGISLATION REVIEW, Vol. XX, No. 1, March, 1930, p. 24.

[2] See "Hoover's Unemployment Policy," by George H. Trafton, AMERICAN LABOR LEGISLATION REVIEW, Vol. XIX, No. 4, December, 1929, pp. 373-375.

opposition came, as usual, from the National Association of Manufacturers, who filed a brief against the bill to create an adequate public employment service.

Although the Senate action comes as the result of an unemployment emergency, the three Wagner bills are well-considered measures looking toward a permanent program. Proposals relating to the long-range planning of public works have been before Congress for several years. Such legislation had already been enacted in two states when the Kenyon bill of 1921 was introduced in Congress and favorably reported by the Senate Committee; but Congress failed to act. In 1928, the Jones bill was likewise reported favorably; but again no further action was taken. The present Wagner bill, S. 3059, is thus the third bill of its kind to be favorably reported by a Senate committee and the first to be passed by either house.

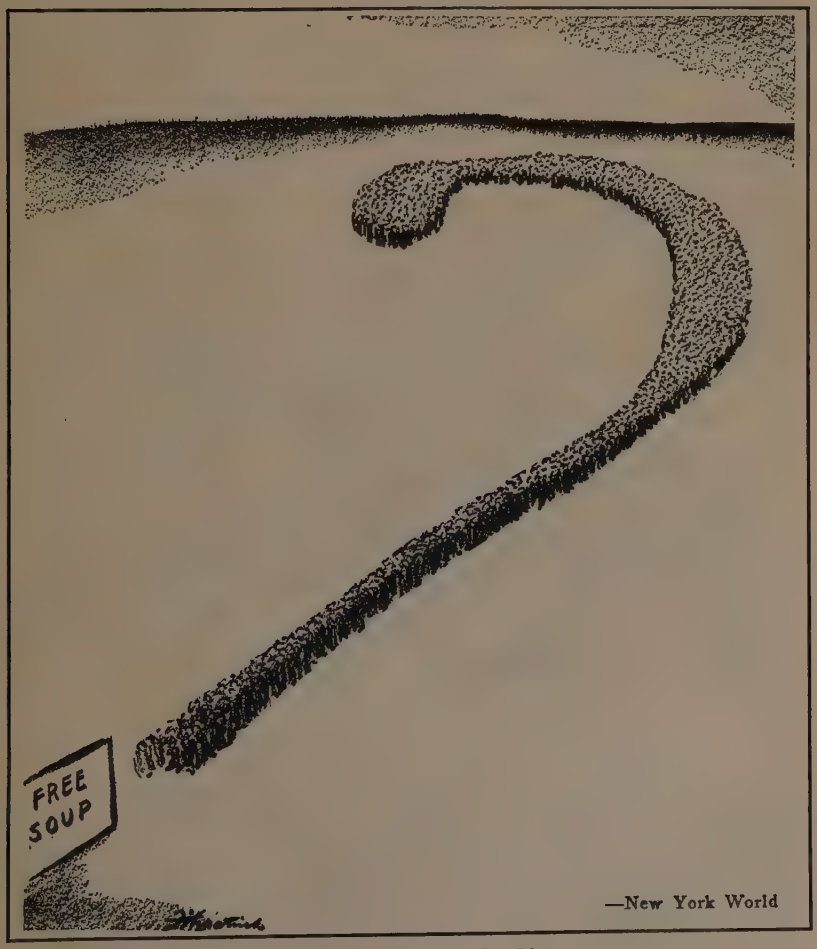
Ever since the depression of 1914, the Department of Labor, in recognition of the urgent need, has operated an employment service handicapped by want of funds and lack of trained personnel. This service was greatly expanded during the war emergency, but when the emergency had passed it was again starved into skeleton proportions by Congress. In April, 1919, the Department called a conference at which were delegates representing the federal employment service and the governors of several states. This conference drew up detailed recommendations, urging the continuance of the United States Employment Service as a permanent bureau in the Department of Labor. These recommendations were embodied in the Kenyon-Nolan bill of 1919, and later in the Wagner bills of 1928 and 1929. Although these bills have been almost constantly before Congress for over ten years, the only action up to the present year was a favorable committee report in the House in 1919.

The Wagner bills, as passed by the Senate, have now gone to the House. The bills providing for the long-range planning of public works (S. 3059) and an adequate public employment service (S. 3060) have been referred to the Judiciary Committee, and the bill to provide better employment statistics (S. 3061) has been referred to the Committee on Labor. With the attention of the entire country directed toward a constructive handling of the unemployment problem, these committees should be urged to make early and favorable reports so that the House may promptly enact this sound legislation into law.

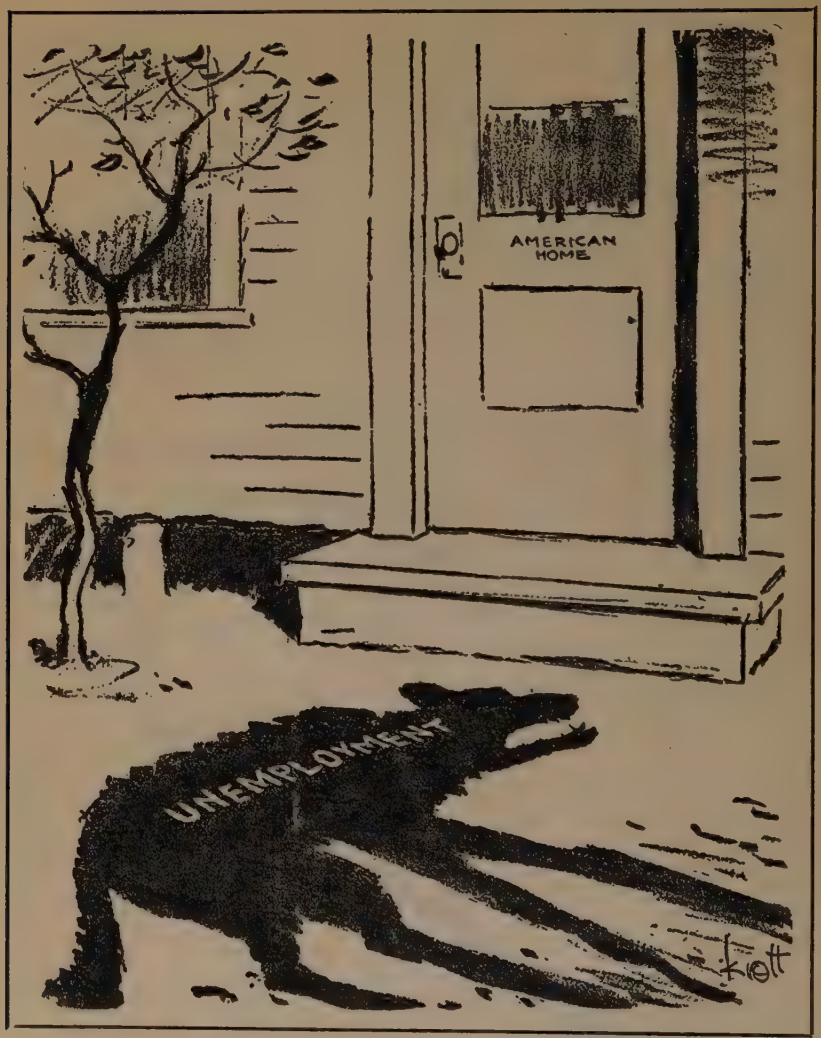
Cartoonists View Unemployment

In 1930, perhaps more than ever before, the American public has become keenly aware of the menace of unemployment and the need for a constructive program of prevention. This widespread interest in unemployment has been reflected in the daily and periodical press by an unusually large number of cartoons.

The cartoons here reproduced are selected as merely typical of many that have been published recently. They are an indication that unemployment has indeed come to be regarded as "the question before the house."



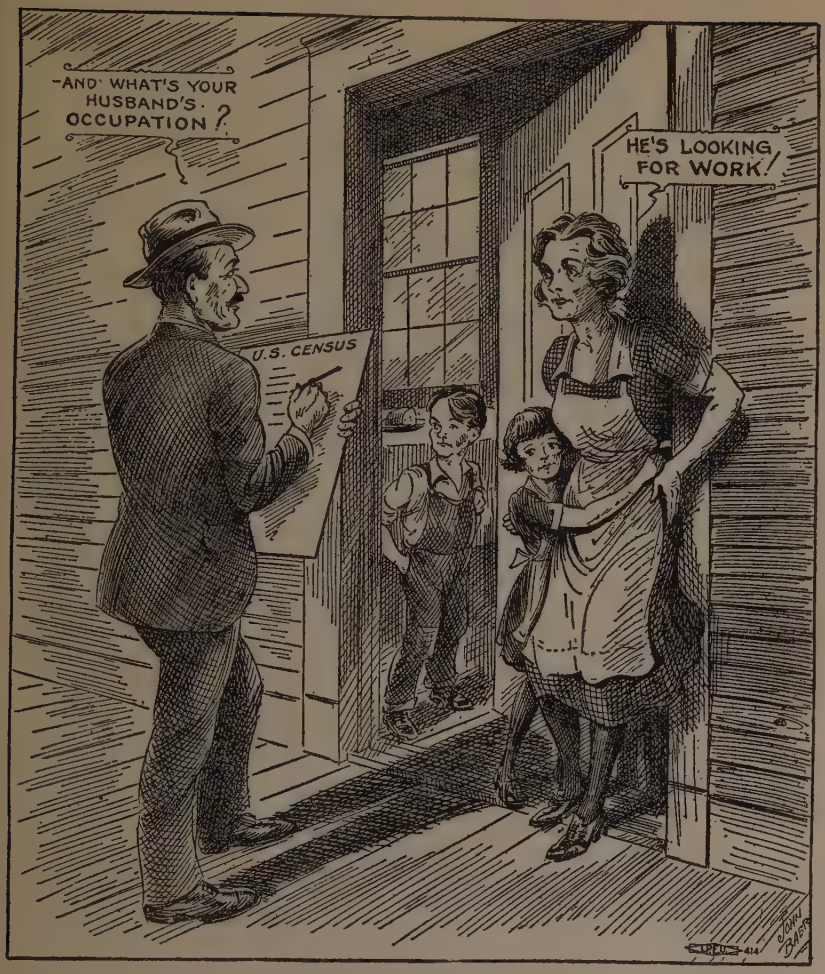
The Question Before the House



—Dallas (Texas) News

Shadow of the Wolf

Reports from charity organizations show that the depression has caused an unprecedented amount of destitution. What this represents in physical and mental suffering for workingmen and their families, together with its demoralizing effects upon the unemployed and its disruptive influence upon home life, makes unemployment a major social as well as an economic evil.



—Labor

In Millions of Homes

Looking for work when none is to be found is a most trying experience. The federal census of unemployment came at a time when this necessity had been forced upon millions of workers. When tabulated, the census data will show what a major industrial depression costs in terms of wasted man-power. But we do not need a census, valuable as it may be in other respects, to tell us that unemployment is a serious national problem demanding the immediate adoption of a farsighted program.

—Chicago Daily News

How to Cripple Three Birds with One Stone

Unemployment breeds crime and is a leading cause of social unrest. Demonstrations by jobless workers have recently occurred in many cities. In some instances, the police have used violence to break up these meetings. The public, however, is coming to realize that an attack upon *unemployment* is a more effective means of preserving "law and order."

—Omaha World-Herald

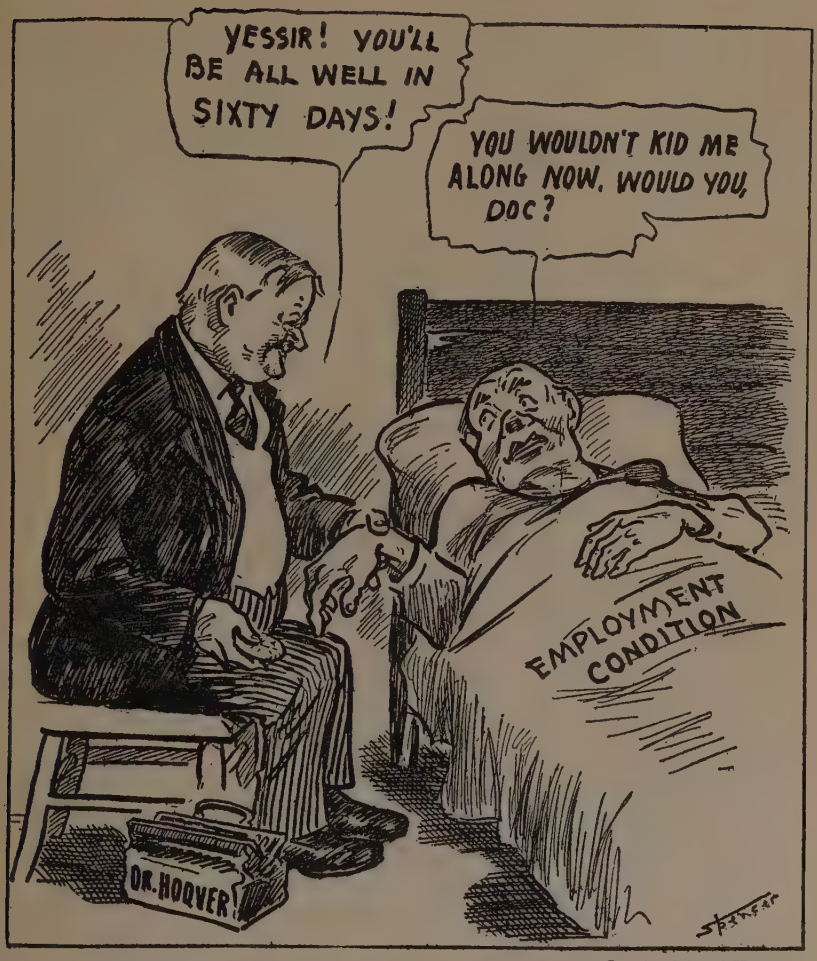
On the Horizon

The hope of spring construction as a relief for the severe unemployment was early pointed out in many reports on business trends. But the necessity of waiting for the usual seasonal upturn in business activity emphasized the lack of a positive program for dealing with the situation. The hastily prepared federal and state emergency programs for the construction of public works could not be carried out in time to be of service when most needed. Again it was demonstrated that such programs must be planned well in advance of the depression in order to accomplish their purpose.

—Omaha World-Herald

"Where?"

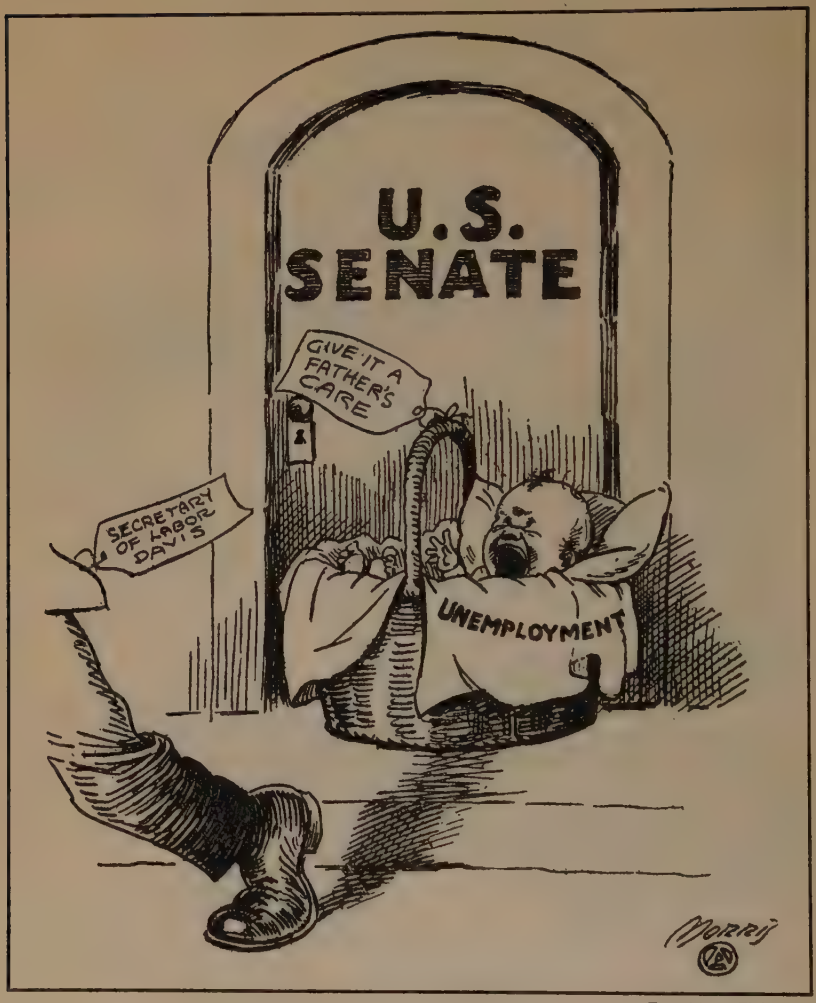
Immediately after the stock-market crash, there appears to have been a concerted attempt to make light of the unemployment situation. This campaign of forced optimism became increasingly incongruous as, month after month, official employment statistics indicated a steady increase in unemployment. The result has been a general scepticism toward all encouraging reports. The injury which such distrust may cause to a reliable statistical service is apparent. Particularly deplorable in this connection was the use which the federal administration made of figures from the United States Bureau of Labor Statistics in predictions of the business trend which later proved to be incorrect.



—Omaha World-Herald

Doubtful Encouragement

Even President Hoover himself issued hopeful business forecasts. But after statements by responsible federal officials which misinterpreted government employment statistics, optimistic words were received with misgivings on the part of business and the public. It became evident that in periods of severe depression it is difficult to restore business confidence without concrete evidence of an upward trend.



—Brooklyn Citizen

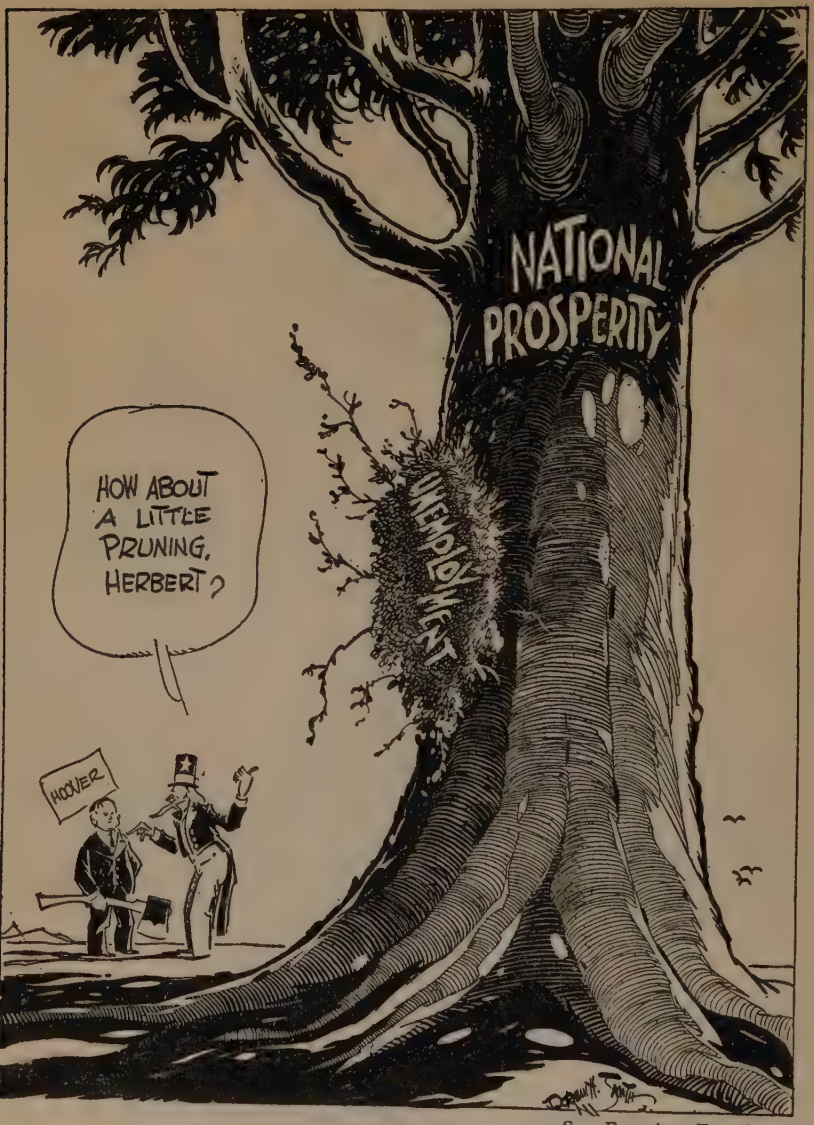
Putting It Up to the Senate

With the depression upon us the politicians who had promised good times tried to shift responsibility. Secretary of Labor Davis even charged that the United States Senate was to blame for unemployment. Such charges, while they may serve political ends, evade the real issue: Unemployment is a permanent problem, for which permanent and adequate provision by the Federal Government is needed.

—Portland (Ore.) Journal

"Little Nero"

While the distress of the jobless was growing, Congress was engrossed with the tariff bill. Sound proposals for the prevention and relief of unemployment, embodied in the three Wagner bills had to be disregarded while this perennial conflict raged in the Senate. Congress had yet to recognize its responsibility for a constructive federal unemployment policy.



An Unnecessary Parasite —San Francisco Examiner

The federal administration showed a surprising disinclination to undertake the leadership in behalf of this urgently needed legislation, although all three of the Wagner proposals had repeatedly been recommended by official and semi-official fact-finding committees under Herbert Hoover's leadership.

It is to be hoped that the present crisis will teach its lesson. Business depressions, however, merely exaggerate the continuous effects of seasonality, technological change, old age at forty, and the many other causes of unemployment. No program of prevention is adequate which fails to recognize that unemployment is a permanent and not merely an emergency problem.

Job Sellers Flaunt Oklahoma Law

THE abuses practiced by fee-charging employment agencies become all the more flagrant during an unemployment crisis. The present depression, especially, has found the unemployed worker quite at the mercy of gouging agents who, since the Supreme Court decision in the case of Ribnik *v.* McBride, feel free to charge all that the jobless can pay.

In Oklahoma, the State Commissioner of Labor, W. A. Pat Murphy, recently attempted to prevent the "Employers' Service Association" of Tulsa from charging exhorbitant fees for jobs. The manager of this agency, Merle B. Sell, has no stated scale of fees, but extracts from each man what he thinks he can get. In one instance, for example, a worker was charged $24 for a $150 job. Sell, however, challenged the commissioner to enforce the state law enacted to protect the unemployed from such extortion. The attorney-general, who was requested for an opinion, notified Commissioner Murphy that the Oklahoma law limiting the fees which employment agencies may charge could not be enforced because of the Ribnik decision.

Commissioner Murphy is now urging the amendment of the state licensing law so as to include the regulations recommended by the New York State Industrial Survey Commission in its report to the New York legislature in 1929. These include a careful investigation of the character of the applicant for a license to operate a fee-charging employment agency, the posting of a scale of fees which then must not be exceeded, and the granting of power to the commissioner of labor to revoke licenses for cause.[1]

[1] See "Employment Agencies Officially Exposed," AMERICAN LABOR LEGISLATION REVIEW, Vol. XX, No. 1, March, 1930, pp. 27-34.

New York Fails to Act

By George H. Trafton

THE State of New York has once again failed to enact an adequate law to protect its unemployed workers from being swindled by unscrupulous fee-charging employment agencies.

The 1930 legislature had before it a well considered bill, embodying the official recommendations of the State Industrial Survey Commission. At the legislative committee hearing, this bill was strongly supported by the State Department of Labor, the State Federation of Labor, and the American Association for Labor Legislation. It was also endorsed by numerous other public-spirited organizations and individuals throughout the state. But the bill was held in committee.

The evils which have always made the fee-charging employment agency business an object of grave public concern have repeatedly been called to the attention of the New York legislature. In the fall and winter of 1928, the official Industrial Survey Commission conducted hearings throughout the state at which sworn testimony was received from workers, public officials, social workers, and the agents themselves. Everywhere the same flagrant abuses were described. This official commission made a report to the legislature urging effective state regulation in place of the lax city supervision which was found to exist under the present law. These recommendations were made specific in the form of an official bill which was introduced in the 1929 legislature—too late for action in that session.

The official bill was again introduced in the 1930 legislature. This time it was introduced in both Senate and House by leading members of both political parties, and Governor Roosevelt in his message urged its passage. The leader of the Senate and the Speaker of the Assembly had signed the recommendations of the Industrial Survey Commission.

In order to inform the new legislature of the facts uncovered by the Survey Commission, the American Association for Labor Legislation published and distributed widely a digest of the hitherto unpublished testimony before that Commission. Just as the legislature convened, the newspapers reported that another fee-charging

employment agency had closed its doors after having swindled 250 unemployed workers of $1,400 in a week's time. In March, an agency in Rochester closed after collecting fees for jobs which did not exist. And one week before the legislature adjourned, a clergyman in the Bowery district of New York City made vigorous charges in the press that agencies in that district are splitting fees with foreman and sending workers to distant labor camps where living conditions are unbearable.

These recent disclosures gave added emphasis to the need of an effective state law. Moreover, two weeks before the legislature adjourned, an advisory committee on employment problems appointed by the State Industrial Commissioner, Frances Perkins, recommended "that the regulation of commercial agencies be under the control of the state rather than that of local authorities." But the committee of the legislature killed the official bill by failing to report it out for a vote. The Republican leaders must take the responsibility for this tenderness toward the fee-charging agencies which are afraid of efficient state supervision.

The business of job-selling, when not carefully regulated by the state, has always been notorious for its abuses. The majority of the states have recognized this need of state regulation. But New York, the largest industrial state in the country, still clings to local licensing and inspection; and fee-charging employment agencies continue to mulct the unemployed.

The fight for adequate state regulation of fee-charging employment agencies in New York has only begun. Sooner or later the people of the Empire State will demand that decent protection be provided for its unemployed workers.

Tit for Tat

"A system of federal unemployment insurance, the professional economists advise us, would not be practicable because politicians are bound to mismanage it. The politicians, on their part, maintain that such a solution is economically unsound."—*The New Freeman.*

Brickmaking on the Hudson

By C. H. Scherzer

IN the summer months, some few years back, passengers on the New York Central between New York and Albany could observe the operation of many brick-yards along the Hudson River. At that time it was all hustle and bustle in these plants, which were scattered along the banks of the river from Haverstraw to Albany.

Men could be seen trundling wheel-barrows loaded with "green" brick which they deposited on large floors or in racks for the sun to dry. Others could be seen wheeling the partly dried brick from these same floors or racks to the kilns to be set by other men, preparatory to burning. Still other men were employed taking the brick from the kilns onto the barges for shipment. In some yards men dug the clay in the pits with shovels. And dump carts with their drivers moved about the yards. There were forty-eight such yards in operation in the valley only a few years ago, and they were all more or less prosperous.

But now mechanization has done its work. Two years ago half of the yards were abandoned. On May 1st of this year only eight of the twenty-four modernized yards remained in operation, and these not at maximum production. The mechanized yards have every device conceivable to reduce the amount of hand labor. Very little work remains that is not done by machinery.

To complete the picture, let us again go back a few years. In the winter time, when the river was frozen over, thousands of men were employed cutting millions of tons of ice to supply the needs of the nearby cities. In most cases, these were the same men who were to be seen in the brick yards in the spring and summer. This offered the classic illustration of "dove-tailing employments," then hopefully discussed by economists and others.

But here also efficiency did its work. Mechanical refrigeration came to the towns and cities. The demand for natural ice was so greatly reduced that this year there was practically no ice cut on the river. Thousands of men have thus lost their winter jobs; and a large number who loaded the ice onto barges and cars at the ice-houses in the summer were also thrown out of work.

No industries have been established in the valley to give employment to these men who have been deprived of both their winter and summer employments by the mechanization of industry. Villages and towns in the valley are being deserted. Those who remain in the valley have in many cases been able to do so only because their wives and children have found employment.

Here is efficiency. But at what price!

Kentucky Regulates Employment Agencies

THE State of Kentucky has enacted its first regulatory licensing law for the state control of fee-charging employment agencies. This law, which was signed by the governor on April 1, was enacted to rid the state of a type of commercial agency which the labor department had found was defrauding unemployed workers.

Although there are only some thirty fee-charging employment agencies in Kentucky, the familiar abuses have been present. A Kentucky legislator describes the situation which led to the enactment of the law, as follows:

"The necessity for this legislation was created by wholesale robbery on the part of so called employement agencies throughout the state, perpetrated against the seekers of jobs. In some instances a charge of from $1.00 to $5.00 was made for registration on the roster and seldom any results came to the applicant who had, in fact, borrowed money to make the application. Again, after securing a position, the one fortunate enough to have obtained a job was charged from one-half to the entire first month's salary secured from the job. Thousands of poor laboring people, men and women, have been defrauded through this method."

The Kentucky law requires fee-charging employment agencies to obtain annual permits from the state department of labor, for which $25 must be paid. Permits may be refused or cancelled by the department if the applicant or holder is found not to possess a good moral character or to have violated a state law. The agencies must report monthly to the department of labor, post the

permits and copies of the law in their places of business, maintain their offices in an orderly, clean and sanitary manner, and return to applicants any fees paid for positions that have not been procured. Misrepresentation, false or misleading advertising, and fee-splitting are forbidden. The department of labor is directed to inspect the agencies and enforce the act. Penalties for violation are provided.

Although the law enacted is deficient in some respects (e. g., it does not set up a bond requirement and does not provide for a public hearing before a license may be granted), nevertheless it is an important step toward decent protection of unemployed workers in Kentucky. And the disclosures which led Kentucky to enact this legislation, which follows similar laws in thirty-six states, should impress the remaining states with the need for action.

An Appeal to Employers

WOULD to God that some official in the state of New York would give a thought to the employment question, and render it possible for the man without funds to secure a job without having to go to these so-called employment agencies and pay $8, $10 and $12 fees. We have our own state public employment offices. Why won't employers send their requests there, and give the married man a chance, who cannot afford to pay such a price for a job? There is plenty of work in New York state, work for everybody who wants to work, but these money sharks stand between the man in need and the job. Let me appeal to the employers in need of most efficient and reliable help. Send your requests to the state employment offices. Give the man with a home and family to care for a chance to come into his own, and rest assured he will meet your every expectation."—From a letter printed in the *New York Graphic*.

Functions of Administration in Labor Legislation[1]

By Thomas I. Parkinson

Columbia University, School of Law

LABOR law did not begin with the Industrial Revolution. It has existed since the relationship of master and servant—or of employer and employee—was recognized in organized society. Long before legislatures began their contribution to the welfare of laborers the common law of England and of this country, embodied in judicial decisions, established the duty of employers to provide for their employees a safe place to work in, safe tools to work with, safe fellow workmen and safe rules for the conduct of their work.

In the cases in which these common law rules were developed the principal end sought was to compel an employer to make reparation for an injury suffered by an employee, but to the extent that the decisions in such cases defined more clearly the duties of employers and the rights of employees they contributed to the establishment of general standards of conduct similar to those which in our day are the subject of legislative action. In actual practice, however, these judicial rules failed for several reasons to compel adherence on the part of employers to the standards of safety announced by the courts.

In the first place the common law rules were general, not definite. The standards which they prescribed were those which the fictional person known to the law as "a reasonable man" would provide under the circumstances of each particular case. Obviously such rules when applied to specific situations left too wide a margin of doubt to serve as effective guides to action. They were especially subject to the criticism which, in the committee report which led to the foundation of the American Law Institute, was levelled at the common law as a whole, namely, that "those who turn to it for guidance in conduct often find that it speaks with a doubtful voice."

[1] Presidential Address at the Twenty-third Annual Meeting of the American Association for Labor Legislation, in joint session with the American Political Science Association, at New Orleans, December 27, 1929.

Moreover the common law rules were enforced only at the suit of an injured person to recover damages after the fact of injury. Hence an employer was free to observe or not to observe the general requirement of safety, and if he chose to observe it he found it necessary to interpret the general rule and to determine for himself its specific application to his particular circumstances. In making his choice whether or not to incur the expense of placing guards on his power-driven machinery, the only circumstance which might impel him to protect his employee was the risk of being obliged to respond in damages if he interpreted the rule too favorably to himself and thereby his workman was injured, for this is the sanction of the common law—fear that a person injured may invoke the legal processes of the state to compel monetary redress for damage suffered.

Experience has demonstrated that where a rule of law declaring a right or duty is specific, where its violation is readily detected and easily proved, and where there exists some public agency which may be expected to act vigorously in detecting, proving and redressing its violation, an individual is not apt to disregard it; but where the rule imposes a standard of conduct which is indefinite, and the proving of its violation is difficult, the average man will take the chance of interpreting it favorably to himself in the expectation that even if injury to another results he will escape liability. Or, in the words of the committee report to which I have referred, "When the law is doubtful most persons are inclined to adopt the view most favorable to their own interests."

It was for these reasons—the lack of definite standards and of effective enforcement machinery—that judicially developed labor law failed to accomplish the protection of the lives and safety of workers. Therefore we replaced this type of "labor law" with legislation, supplemented by administrative action. Under the old system places and methods of work were required to be "safe." Under modern labor legislation we have endeavored to supplement and give effect to that ancient rule by prescribing definite standards of safety designed to prevent injury. The chief difference is in the method of enforcement. We have turned from the curative, the remedial method of enforcing labor laws, to the preventive method. We now seek by legislation, reinforced by administrative action, to maintain safety and sanitation, fairness and reasonableness in working conditions and relationships.

The first administrative agencies created in this country in the field of labor were Bureaus of Labor Statistics. Their powers were limited to investigation and publication for the information and education of public opinion. Their work resulted in, or at least was followed by, a mass of prohibitive, restrictive and regulatory legislation which depended for its enforcement mainly upon criminal penalties prescribed for its violaton. This labor legislation purported and attempted to improve upon the common law by providing more definite standards of working conditions and relations, but when its provisions came to be applied to the actual facts of life they were found to leave much to the discretion and interpretation of administrative officers, in the first instance, and of the courts —principally the inferior criminal courts—in the last analysis. Its enforcement depended upon the police and prosecution method, the application of the big stick to the hesitant or stubborn employer, and there resulted conflict instead of cooperation, administrative activity without corresponding improvement in working conditions. In vain the legislatures increased the penalties for violation and multiplied the appropriations for inspectors. Finally leaders like Professor John R. Commons recognized that valid and effective labor laws depend upon the adjustment of regulation to changing facts, and that the ascertainment of changed conditions which make such adjustments necessary requires the cooperation, the confidence and the support of both employers and employees.

Drastic legislation is not necessarily effective legislation. We have learned in many fields of governmental regulation that effective legislation must be reasonable legislation. If we are interested in the results produced by a law in its operation, we must see that the standards which it prescribes and the methods by which it is to be enforced are reasonably related to the conditions regulated and reasonably calculated to secure the respect and compliance of the persons affected.

In this country reasonableness is not only a prerequisite to the effective operation of labor legislation. Its very validity, that is its constitutionality, depends upon its reasonableness, for in the last analysis, the effect of our constitutional requirement of due process is simply that any legislative regulation of individual liberty or of private property must pass the judicial test of reasonableness, which, as Mr. Justice Holmes has put it, is whether a reasonable

man reasonably might hold the belief embodied in the statute. Every workmen's compensation law, every regulation of private employment agencies and every factory safety law which unreasonably interferes with liberty or property is invalid and unconstitutional. The test of constitutionality is reasonableness, and, as Judge Pound of the New York Court of Appeals has stated recently, such constitutional questions "are argued from facts and statistics rather than from abstract theories of liberty, due process and equal protection." The factual basis of constitutionality is also well stated by Mr. Justice Brandeis in his dissent in the Burns Baking Company case (Jay Burns Baking Company, et al. v. Bryan, as Governor of the State of Nebraska, et al., 264 U. S. 504), involving the validity of a Nebraskan statute fixing a maximum weight for a loaf of bread, in which he says: "The determination of these questions involves an enquiry into facts. Unless we know the facts on which the legislators may have acted, we cannot properly decide whether they were (or whether their measures are) unreasonable, arbitrary or capricious."

Under our constitutional system, with its presumption of the constitutionality of every statute, one who attacks a labor or other statute as unconstitutional, carries the burden of proving its unreasonableness, but the determination of the issue rests finally upon the courts. There is thus placed upon our judges the task of making an appraisal of existing conditions and their causes, of alleged evils and proposed remedies. If labor or other social legislation is enacted without prior investigation of conditions, the whole burden of determining the factual situation is thrown upon the courts, and as they are not equipped to engage in such fact finding enterprises, it is not surprising that sharply differing majority and minority opinions sometimes result.

In those instances, fortunately few, in which some calamity like the Triangle factory fire in New York City dramatically calls attention to a danger, any remedy therefor which may be provided by the legislature is likely to be regarded as reasonable by the courts and the general public. In the absence of some such dramatic exposure of the evil the process of demonstrating the need for remedial legislation is slow and difficult. Sometimes it is accomplished by a semi-public investigation like that conducted by Dr. John B. Andrews of employees' diseases resulting from the

manufacture of matches with poisonous phosphorus. In other instances the factual situation may be developed by investigations of legislative or administrative commissions or committees, as in the case of workmen's compensation laws. The enactment of labor laws without such preliminary investigation places upon the courts the difficult task of determining the issue presented by an allegation that the legislation is arbitrary, unreasonable and therefore unconstitutional. That was the situation in the Ribnik case (Ribnik v. McBride, 277 U. S. 350), in which the Supreme Court of the United States held unconstitutional a New Jersey statute fixing the fees of private employment agencies. A majority of the court concluded that the conditions under which private employment agencies conducted their business and fixed their fees in New Jersey made it unreasonable and therefore unconstitutional for the New Jersey legislature to fix those fees by law.

Mr. Justice Stone attached to his dissenting opinion a long and imposing array of facts and opinions indicating that in other states and countries as well as New Jersey, experience had demonstrated that fraud upon applicants for work and other evils contrary to the public welfare had developed from the freedom of employment agencies to fix what fees they chose. A reading of this judicial analysis of the conditions affected by the New Jersey statute suggests an inquiry as to the nature and extent of the legislative consideration of the facts prior to the enactment of the law. So far as the records at Trenton disclose, this Employment Agency fee fixing Law was enacted by the New Jersey legislature without any preliminary investigation, without any report from the State Labor Department, without any hearing before a committee of the legislature and without any discussion in the legislature itself. While it is true that a legislative record of such investigation or of the legislature's conclusions thereon would not preclude the courts from subsequent consideration of the reasonableness of the statute, nevertheless it seems desirable from the legislative as well as the judicial point of view that the kind of study attached to Mr. Justice Stone's dissenting opinion be submitted to the legislature and preserved as part of the record of the legislative action. Mr. Justice Stone makes a good case on the facts for the reasonableness of the statute, but the New Jersey legislative records contain no evidence that its action was based on

a consideration of any such facts. It is of course possible for the court to assume that the legislature's action is based on the facts of which the court subsequently takes notice, but it would seem desirable to have the factual situation actually disclosed by the record of legislative investigation and legislative consideration. In many of the most important and bitterly contested cases involving the constitutionality of labor and other social legislation in recent years, the assembling of the facts upon which the decision as to the reasonableness of the legislative action is predicated has been left to counsel preparing the final briefs in support of the law, or, as in the Ribnik case, to the judges who wrote the dissenting opinions. The facts are of vital importance in these cases and they should be emphasized at the birth of the statute in the legislature rather than at its burial in the court.

Investigation, analysis and interpretation of the factual situation as a basis for the development of reasonable legislation constitutes one of the most important functions of labor administration in this country. The opponents of such legislation may be depended upon to marshal the facts in such a way as to indicate the undesirability or the unreasonableness of the proposed or newly adopted labor laws. Proponents of such legislation should not be content merely to secure the enactment of their proposals. To convince the majority of the legislature that a proposal is desirable is of course essential to its enactment into law, but mere enactment of a law will not accomplish the purpose of its proposers. Making it effective in operation will be furthered by persuasive factual support presented to the legislature and preserved for subsequent use by the courts either in determining the legislative intent or the constitutional reasonableness of the law.

While reasonableness in labor legislation is essential, it is not more essential than definiteness. A general rule of law, whether it comes from the courts or from the legislature is a lifeless thing. It becomes a reality only upon application to concrete circumstances. The legislature may and sometimes does enact definite legislation imposing specific standards of conduct, but it is difficult for the legislature to prescribe such definite standards without working such hardship in individual instances as to justify the condemnation of unreasonableness. Definiteness is essential to enforcement, but definiteness requires investigation, consideration and frequent

readjustments for which the legislature has neither time nor capacity. Therefore the general practice in the development of regulatory legislation has been for the legislature to confine itself to general rules of law and to delegate to administrative officers the power to supplement the legislative generality with more specific standards or as the courts put it, "to fill in the details."

This semi-legislative power vested in an administrative body may take the form of rules and regulations defining and developing general legislation, or administrative variation of definite legislative standards. Section 200 of the New York Labor Law, for example, provides that "All places to which this chapter applies shall be so constructed, equipped, arranged, operated and conducted as to provide reasonable and adequate protection to the lives, health and safety of all persons employed therein. The board (Industrial Board) shall make rules to carry into effect the provisions of this section." Section 28 of the same law provides that "The rules of the board shall have the force and effect of law" and violation of such rules is a misdemeanor, punishable in the same manner and to the same extent as violations of labor laws enacted by the legislature itself. This is a comprehensive and far-reaching delegation by the legislature to an administrative body of power to make rules and regulations having the force of law and contributing materially to the development of the labor law of the state. As an illustration of administrative power to vary standards enacted by the legislature, the New York law provides in Section 30 that "If there shall be practical difficulties or unnecessary hardship in carrying out a provision of this chapter * * * the board may make a variation from such requirements if the spirit of the provision or rule shall be observed and public safety secured."

Notwithstanding our constitutional separation of the powers of government and our judicially established doctrine of the unconstitutionality of the delegation of legislative power, these semi-legislative rule-making and varying powers of the administrative bodies are sustained and given effect by the courts because of the recognition of the necessity which prompts them. The extent to which the courts have gone in recognizing the necessity for such powers in the administration of regulatory laws is evidenced by the fact that notwithstanding the broad delegation of power contained in many acts of Congress, no such delegation of power by Congress

to an executive or administrative officer has ever been held unconstitutional by the Supreme Court of the United States. In the state courts there are some decisions holding delegations of rule-making power unconstitutional, but our courts generally sustain such power, provided the legislature has established a basic standard, the development or further defining of which is left to the administrative body.

The importance of the rule-making power and the extent to which it is now vested in and exercised by administrative officers suggests the advisability of surrounding it and its exercise with proper safeguards. In this connection, the experience in England contains some useful suggestions. In the absence of a written Constitution, there are no such limitations on the powers of Parliament as those which circumscribe American legislatures in their exercise of legislative power, including its delegation to administrative officers. It has long been the practice for Parliament to delegate power to make rules and regulations having the force of law.

In 1893 Parliament enacted the Rules Publication Act providing that whenever a rule-making power is delegated to an administrative officer and there is no inconsistent provision with respect to its exercise in the statute delegating the power, a preliminary draft of the rules prepared by the officer shall be published before adoption and shall be reported to Parliament, where they must lie on the Speaker's table for thirty days before becoming effective. Moreover, such rules when adopted are published annually as are the acts of Parliament. Under this procedure there is publicity before adoption of rules by the administrative body, a theoretical control by Parliament before their enactment, and publication after enactment equivalent to the publication of the statutes.

Notwithstanding these safeguards, the desirability of Parliamentary delegation of the rule-making power frequently becomes a matter of discussion and concern. When the Local Government Act of 1929 was under discussion in the House of Commons, the following clause as it then appeared in the bill before the House was the subject of vigorous criticism: "If any difficulty arises in connection with the application of this Act, the Minister may by order remove the difficulty or make any appointment or do any other thing which appears to him necessary or expedient for bringing

the said provision into operation and any such order may modify the provision of this act as far as may appear to the Minister necessary or expedient for carrying the order into effect."

In the debate on the bill this clause was criticised as surrendering Parliamentary control over the details of legislation and giving to administrative officers power to make the law as well as to enforce it. To these criticisms, the Minister of Health replied that clauses providing for equally broad delegations of power had been included in important legislation for many years. One of the critics of the provision admitted during the discussion that he had voted in 1911 in favor of a statute containing a similar clause. The clause was amended to lessen the emphasis on the administrative discretion. Nevertheless, as finally enacted, the Act authorizes the Minister of Health to make such order as he deems necessary to remove any difficulty arising in connection with the application of the Act.

As a result of the discussion provoked by this Act, it was suggested that Parliament create a joint committee to scrutinize rules adopted and submitted to Parliament by administrative officials before they become effective. Prime Minister Baldwin, responding to this suggestion, stated that it would be "impracticable," as such a committee could not effectively examine the great volume of statutory rules and orders annually issued by the Privy Council and the public departments of the government. Referring to the statistics, he pointed out that for the preceding three years, the average number of acts of Parliament was 50.6 covering an average of 539 pages in the official statute book; and that during the same period the average number of rules was 1408.6 covering an average of 1,844 pages in the official publication, which, he added, were more closely printed than the statutes. These figures only served to emphasize the need of some machinery by which Parliament could exercise effective control of administrative contribution to statutory regulation. Though the suggestion for a joint committee was not adopted, consideration of it provoked discussion of the whole problem of administrative rules and regulations. Even the London *Times* remarked editorially, "Is it right to arm the servants of the King with the very kind of powers which we fought the King to wrest from him and from his Council?"

It would not be difficult to duplicate in American labor legisla-

tion, as well as in other regulatory legislation, administrative powers as broad and unqualified as that contained in the English Local Government Act. Moreover, our statutes delegating rule-making powers frequently do not provide sufficient safeguards respecting the exercise of this power. There is often no provision for notice, hearing or investigation by the administrative body as a basis for its rules; no provision for publication of proposed rules prior to their adoption; no provision for submitting proposed rules to the legislature; and no provision for the publication of the rules as they become effective. Administrative rules and regulations having the force and effect of law may in a number of states be adopted and become effective without publication outside the records of the administrative department which promulgates them.

In the recent case of Schumer v. Caplin (241 N. Y. 346), an injured window-cleaner sought damages from the owner of a building who had failed to comply with a rule of the Industrial Board requiring safety-hooks. The question in the case was whether the failure to comply with this rule constituted negligence and entitled the plaintiff to recover damages. In both the Appellate Division of the Supreme Court and in the Court of Appeals, this question was discussed and the rule referred to, but it was nowhere quoted nor was it at that time available in the principal law libraries of New York City. It was published in pamphlet form with limited distribution and available on request at the offices of the Industrial Board. The attitude quite commonly held with respect to such rules is explained by a statement made some years ago by a Pennsylvania District Court Judge who, in refusing to give effect to rules and regulations promulgated by the Federal Pure Food Commissioner, pointed out that the judges of the state courts were not furnished with the bulletins containing such rules, and added "At least I never received any and never saw one. To allow the law to be determined by such bulletins would be to render confusion twice confounded."

It is admitted that, where the legislature so provides, administrative regulations have the force and effect of law for the purpose of imposing criminal punishments for their violation, for the purpose of invalidating contractual promises the performance of which would involve violation of such regulations, and possibly for other purposes in private law. With the growth in number and importance of such regulations, it becomes increasingly necessary that their

development, adoption and publication be surrounded by safeguards imposed by the legislature. Steps in this direction have already been taken by the New York legislature, for Section 29 of the Labor Law, relating to the development of the rules which constitute the Industrial Code, provides that before any such rule is adopted, amended or repealed by the Industrial Board, there shall be a public hearing thereon, notice of which shall be published at least once, not less than ten days prior thereto, in such newspaper or newspapers as the Board may prescribe, and, where it affects premises in the City of New York, in the *City Record*. This section also requires every rule adopted to be published promptly in the bulletins of the Labor Department, and, where it affects premises in the City of New York, in the *City Record*. The rules, unless otherwise prescribed by the Board, take effect twenty days after the first publication thereof, and certified copies of every rule are required to be filed in the office of the Department of State.

This same section recognizes the fact that many interests may contribute to the development of administrative rules by authorizing the Industrial Commissioner to appoint committees composed of employers, employees and experts to suggest rules or changes therein. This authority is frequently exercised by the Commissioner, and it should also be said to the credit of the Industrial Commission of Wisconsin and the Labor Department of New York (see Annual Report of Industrial Commissioner, 1925, pp. 132-136), that even when not specifically authorized to do so by statute they have made it their practice to seek the cooperation and advice of employers and employees, to hold public hearings, and otherwise to obtain as a basis for the exercise of their rule-making power such specific information as the legislative authorities recognized was essential when they delegated the power.

The efficient administration of our labor laws involves not only the application of existing rules but the gradual development of more definite, more reasonable and therefore more effective laws. Our administrators must realize that though the letter of existing law be repressive or compulsory, its spirit is service—service to the employer, the employee and the public. "The Labor Department," said Miss Frances Perkins, the New York Industrial Commissioner, "is a service institution." Both the New York Department and the Wisconsin Department have put into practice the cooperative, educa-

tional and service ideal of labor law enforcement. They have enforced existing laws by education, persuasion and cooperation, and only when necessary, by subsequent compulsion. They have been developing out of daily administrative experience, out of constant investigation, out of current statistics, and out of conferences with employers and employees, the material for the readjustment of existing laws as well as for their present application. They realize that the task of the Labor Department still involves that which was the sole function of the Bureau of Labor Statistics. Their work is still educational though the emphasis is no longer on education of the public, but rather on education of the employer and the employee to realize their joint and several interests in improved working conditions and relationships.

If this be the function of labor admistration, it must like Chaucer's scholar "love to learn and eke to teach." It must learn from the experience of both employer and employee if it is to play wisely its part of their instructor. The task is a continuing one. It requires and deserves encouragement, inspiration and assistance from such agencies as the American Association for Labor Legislation and the American Political Science Association.

Through the death of **V. Everitt Macy** the cause of labor legislation has lost a prominent supporter. Mr. Macy had for more than twenty years been an active member of the American Association for Labor Legislation, and at one time served as treasurer.

Labor Law Enforcement

By Alfred E. Smith

(Editor's Note: *His exceptional understanding of state administrative problems makes these extracts from an address by former Governor Smith before the New York Consumers League on April 7, 1930, of special interest to the American Association for Labor Legislation, which is in the midst of a survey of labor law administration.*)

LAWS of economics work in the enforcement of the labor code as in everything else. You get the number of factory inspectors, clerks and necessary officials that you pay for. You don't get any more. And you have to be constantly on the alert to see that you don't get any less.

There was appropriated for the enforcement of the New York State factory code in 1910, $225,000. That meant that the factory code was in the statutes and stopped right there, because we did not have enough inspectors to make it effective. In 1920, when I was in my second term as Governor the factory code appropriation had jumped from $225,000 to $2,638,000. This sum was required to accomplish the purposes behind the labor statutes. Then we fell into a period of "economy." The reduction made itself felt in the physical forces abroad in the state seeing to the enforcement of the law. When I went back in 1923, the appropriation jumped again to $2,171,000. In the fiscal year ending the thirtieth of June, 1930, the operation of the department will have cost $3,198,673. Next fiscal year it will be $3,444,000, and in spite of what any candidate for public office says, in spite of any promise to reduce the cost of this department, if you ask him how he is going to effect his "economy" he can only answer by saying that he proposed to curtail the law-enforcement service of the state. * * *

I have a world of confidence in the good sense and good judgment and desire for fair play of the manufacturers and business men of this state. I think they have a sense of obligation toward their workers. But I know that often they are ignorant of the facts. The state can go to the very limit of enforcement through paid agents, but unless you reach the heart and conscience of men who appear to be the beneficiaries of unwholesome conditions, you are far from solving the problem. * * *

I remember when the 48-hour law was pending in Albany a large manufacturer from Rensselaer, on the other side of the Hudson River, stopped in to bid me good-bye before going away for a winter vacation. I shall never forget what he said to me as he left. If it were possible to set his words re-echoing in the ears of other men in the state, we might not even need the 48-hour law. He said. "Governor, Almighty God has been very good to me. I have lived beyond the biblical age of man. I am going to rest for five or six weeks in the South. All I want beyond air and food and clothing is peace of conscience. If I thought you had to pass that law for my employees I could not have that, but my employees have a 48-hour law for my own personal comfort." * * *

It has been my experience over a quarter of a century that an outside organization is absolutely necessary, particularly in a state as big as New York, if we are to make any progress in this field of labor legislation and labor law enforcement. I say this without any criticisms of legislatures, Democratic, Republican—or even mixed! The legislature brings together 201 men from all parts of the state. The minute they arrive in Albany there comes an avalanche sweeping away disinterested opinion with arguments about the operation of a canal, the construction of better roads, the care of the insane, the local affiairs of small towns and villages, and the size of wall-eyed pike you can take out of Lake Ontario. In a couple of months the legislators must budget the expenditure of $300,000,000 for the operation of the state government. * * *

There doesn't seem to be any immediate cure, but **one thing that helps is an outside organization that sends well-informed, disinterested representatives to the Capitol to discuss these public welfare questions on the basis of real study and investigation.**

"Government does not interfere with business until business itself has created the necessity."—*James Couzens, United States Senator.*

Factory Inspection in Rhode Island

An Intensive Study in Labor Law Administration[1]

WORKING conditions in the mills, factories, shops, and offices of Rhode Island are of vital concern to the people of the state. Employers as well as employees have an interest in the maintenance of reasonable standards of health and safety in industry.

The public importance of protecting workers from dangerous and injurious employment has long been recognized by the people of Rhode Island. The legislature has set up legal standards of safety, sanitation, and hours of work which it is recognized should be generally observed in industry. In 1894, the office of state factory inspector was created.

This legislation was not designed to regulate conditions of work in up-to-date, efficiently managed industrial establishments. Such employers do not need to be told by the state to maintain decent working conditions. Their employees, in fact, often enjoy better protection than the law requires. These labor laws were designed, rather, to check those inefficient employers in the state who, in order to undersell their stronger competitors, seek to decrease costs by neglecting the safety and health of their employees. Regulatory labor laws aim to encourage the uniform adoption of socially desirable methods in industry. For this reason, the effective administration of labor laws, while primarily protecting the well-being of the employed worker, is of vital interest to the better employer.

It is therefore as a public service to employers and employees alike that the American Association for Labor Legislation has made this study of factory inspection in Rhode Island. The report includes a description of the nature of the labor laws, the personnel of the factory inspection bureau, the appropriations made by the

[1] Report based on a special study including a field investigation made during the winter of 1929-1930 for the American Association for Labor Legislation.

legislature, and the methods used in the administration of the law. In each instance, there are recommendations based upon the analysis and upon administrative experience of this and other states.[2]

I. The Labor Laws

The factory inspectors of Rhode Island administer laws relating to safety, hygiene and sanitation, and the employment of women and children. A careful analysis of the provisions of these laws shows that they have been so poorly framed as to make adequate enforcement extremely difficult.

Decentralized Administration

In Rhode Island there is no centralized department to administer the labor laws. The factory inspection service is an independent bureau, created in 1894 to enforce those labor laws which regulate the working conditions of employed workers. But even this function is not completely centered in the office of the factory inspector. Building construction laws are administered only by local building inspectors; and steam boiler inspection is a duty of the state boiler inspector. On the other hand, the factory inspector is assigned the task of protecting *consumers* from unsanitary bakeries, confectionaries, and ice-cream manufactories.

Other labor laws, relating to workmen's accident compensation, the public employment service, conciliation and arbitration, and industrial statistics, are administered by the state commissioner of labor. The commissioner of labor, however, shares the administration of workmen's compensation with the courts; the factory inspector is also required to collect industrial statistics; and regulation of fee-charging employment agencies is left to the discretion of local authorities. On the other hand, the commissioner of labor is burdened with the task of collecting the financial statements of the cities and towns of the state, and also with the duty of licensing coal dealers!

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[2]More than forty representative Rhode Island employers, insurance inspectors, wage-earners, and public officials were interviewed in this study, in addition to observation of office methods and the work of inspectors in the field.

This complete report was submitted in advance of publication to the Chief Factory Inspector of Rhode Island inviting specific criticism of any statements which should be modified in the interest of accuracy. He replied on April 7, 1930: "I do not deem any criticism necessary."

Such confusion in labor law administration is inefficient and contrary to the best practices of other states. Long experience in many states has demonstrated that this function should be centralized in a single Department of Labor and Industries. This important step was officially recommended to the Rhode Island legislature in 1929 by the Grinnell Commission on Departmental Reorganization.

Uncertain Coverage

As a group, the laws administered by the factory inspector are so all-inclusive in their coverage that it is necessary for the inspectors to visit practically every business establishment in the state. This virtue, however, is greatly impaired by the failure of all laws to apply uniformly to all those establishments where departures from the legal standards might occur.

For example, the general regulations governing safety and sanitation [3] are made to apply only to "factories and workships," with the result that mercantile establishments are exempt from this section of the law. Other sections apply to "every manufacturing, mechanical or mercantile establishment," which apparently is a less inclusive coverage than is intended in those sections which apply to "every person, firm or corporation doing business in the state." No precise definition of terms is given.

Added to this confusion is a section, dating from 1905, which provides that the entire chapter shall apply to businesses employing five or more persons or employing any child under 16 years of age. It is not clear whether this section limits the application of subsequent sections which specifically apply to "every" or "any" business in the state.

Undefined Standards

But perhaps even more serious in practical effect is the failure of certain important sections of the law to provide for detailed regulations which would make definite and enforceable the general standards set up by law. It is idle to expect such general terms as "adequate" and "sufficient" and "proper" as used in the law, to be translated into specific terms by individual inspectors. As it stands, the law leaves this task of definition to the inspector. And inasmuch as the chief factory inspector has adopted no specific administrative

[3] P. L. 1926, C. 761, S. 9.

rules to guide the inspectors in enforcing this law, the result has been the enforcement of only the most obvious and minimum standards.[4]

Other Defects

The Rhode Island factory inspection law is wanting in several other respects. Although freight elevators are subject to inspection, passenger elevators are not. Then too, the failure of the law to assign to the factory inspectors, or to some other state service, the duty of supervising building inspection is likely to hinder the enforcement of safety and sanitation regulations by the factory inspectors, because much depends upon the structure of the buildings to which these regulations must be applied. Purely local control of building inspection is almost certain to result in lack of uniformity of enforcement.

The Rhode Island law requires that all fatal accidents and all accidents causing two weeks' disability shall be reported to the chief factory inspector. If enforced, this requirement would result in a duplication of effort for those employers who must also report accidents to the commissioner of labor under the workmen's compensation law. It is therefore not enforced by the chief factory inspector; with the result that the many employers not under the provisions of the compensation law do not report accidents to the state.[5]

Rhode Island, therefore, has no adequate knowledge of industrial accidents occurring in the state, the means by which many other states discover the danger points that need special attention from the factory inspectors. Moreover, employers have frequently been so slow in sending accident reports to the commissioner of labor that although they are promptly transmitted to the factory inspector,

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[4] The importance of a carefully prepared safety and sanitation code is suggested by the report of a survey of New England manufacturing industries made by the McGraw-Hill editors in 1929. The editors found in New England a "staggering burden of old buildings," poor lighting, bad housekeeping, and a lack of practical machinery safeguards and of modern sanitary facilities. Rhode Island is no exception to this general characterization.

[5] It is estimated by the field investigator that at least 4,500 establishments with 85,000 employees do not report accidents in Rhode Island. The commissioner of labor in his report for the year 1928, made this striking statement: "Although 8,642 employers accepted the provisions of the [workmen's compensation] act only 4,940 secured the payment of compensation, leaving 3,702 who have failed to secure the payment of compensation as provided by law." In his report for 1929, the commissioner of labor stated that 4,200 out of 9,231 employers in Rhode Island have failed to insure.

ascertainment of the cause of the accident by investigation is often difficult.

A law enacted in 1929 requires every business in Rhode Island which employs five or more persons to notify the chief factory inspector of its name, the character of its business, its address, and any change of address at any time. In addition, the employer must report in April and October the number of his employees classified according to sex and age group. This census should be of assistance to the inspection service. But inasmuch as the collection of industrial statistics is also a function of the commissioner of labor, a further division of a single administrative function therefore results.

The Rhode Island factory inspector has legal authority to "visit and inspect" all establishments subject to the law, and penalties are provided for obstructing the inspector in the performance of his duty. But employment certificates for children under 16 are the only records which the employer must show to the inspector on demand.

Recommendations

The weaknesses of Rhode Island's labor laws call for immediate attention from the legislature. If the workers of the state are to be given reasonable protection, the following improvements are essential:

1. **The creation of a Department of Labor and Industries headed by three paid commissioners who shall be charged with the administration of all labor laws including workmen's compensation, and who shall supervise the work of the various bureaus within the Department.**
2. **The authorization of the Industrial Commissioners to make rules and regulations with the cooperation of representatives of employers and workers, with the advice of experts, for carrying out the provisions of the labor laws, and, after public hearing, to promulgate these rules and regulations, which shall then have the force of law.[6]**

[6] This rule-making power in the administration of labor law is already to be found in the Rhode Island law prohibiting the employment of minors under 16 years of age in hazardous or injurious work. This law authorizes the state board of health to declare any particular kind of work to be injurious or dangerous for such minors; and it thereupon becomes unlawful to employ minors under 16 at the work so designated. Other states have given similar authority to their labor commissioners in order to make their labor laws both flexible and specific.

3. **Recodification of the labor laws so as to make provisions equally applicable to all establishments.**
4. **Assignment to the factory inspectors of the duty to inspect passenger elevators and to supervise the inspection of buildings used for business purposes, including the approval of blue prints of building plans.**
5. **Creation, within the Department of Labor and Industries, of an Industrial Hygiene and Research Bureau whose function shall be (a) to study industrial accidents and occupational diseases, (b) to study the conditions of work surrounding women and children in industry, (c) to plan and conduct safety education campaigns and (d) to make special studies at the request of other state bureaus.[7]**
6. **The unification and improvement of the accident reporting provisions so as to secure adequate and prompt reports of all accidents from all establishments subject to the labor laws.**

II. Personnel

The Rhode Island statutes provide for a chief factory inspector, a deputy chief and three assistants, one of whom must be a woman.[8] All five inspectors are appointed by the governor, with the advice and consent of the Senate, for a term of three years. There are no entrance requirements, and the law does not provide for training after appointment. The inspectors, however, must devote their whole time and attention to their duties. This method of selecting factory inspectors is likely to lead to the introduction of partisan politics to the injury of efficient administration.[9]

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[7] The Rhode Island Commissioner of Labor in his report for 1928 declared that "there is abundant evidence for the belief that the state should encourage every industrial organization to prevent accidents by assuming leadership in the movement and by the appropriation of sufficient money to accomplish the work."

[8] Closely following this investigation the Rhode Island legislature, on April 16, 1930, in partial agreement with recommendations made in this report, added one new field inspector and reclassified the field force as five "deputy inspectors."

[9] When the field inspectors were reclassified in April, 1930, an inspector of two years' experience was ranked ahead of an inspector of eight years' experience. Senator John H. Nolan, of Newport, asked to be recorded as voting against this classification on the ground that it was made because the promoted inspector "wielded a greater sphere of political 'vote-getting influence'". He declared himself as opposed to "such petty politics being injected into such an important department of Government." And he added that in his opinion "this sort of thing improves the morale of no department."

Factory inspectors in Rhode Island have, for one reason or another, enjoyed a fair degree of job security. The chief inspector, who is 79 years of age, has served for 32 years, and the deputy chief, for nine years. The assistant inspectors have served eight, five and two years respectively.

The chief inspector, prior to his appointment, was a newspaper manager. Two of his present staff have had industrial experience. One of these, the deputy chief, was a worker in machine shops for 30 years, and a weaver in textile mills for ten years before entering the inspection service. The youngest assistant completed a four year apprenticeship in tool making, he was in the ordnance department during the World War, and for ten years before his present appointment he was doorkeeper of the state Senate.

The remaining assistants lack industrial experience. One had been in the wholesale market business; and the woman assistant had been an employed milliner for 15 years and later was in business for herself. So far as was ascertained, only one of the five inspectors has an outside activity.

Not only does the law fail to prescribe entrance requirements or a period of training, but in practice only a minimum of instruction is given a new appointee. At a conference with the chief, the "green" inspector is told the main provisions of the law, his powers and duties under it, and the method of filling in the inspection forms. Practically the only instruction given as to the method of making an inspection is that he must inform the management before touring a plant, except on a complaint investigation regarding the hours of women or children.

With these brief explanations, the new inspector is left to his native intelligence and the cooperation of the employers to learn the distinctive features of any industry, that he may recognize conditions where violations might occur. Only if a new appointee were entirely without experience in industry would he be sent into the field with an experienced inspector for a few days, according to the chief factory inspector.

Recommendations

Labor laws do not enforce themselves. The effectiveness with which they are enforced depends to a large extent upon the personnel of the inspection service. Rhode Island might well consider

the advantages of selecting and encouraging the development of an adequate staff of factory inspectors by:

1. **Establishing minimum entrance qualifications, preferably with civil service requirements.**
2. **Requiring each inspector to become familiar with the labor laws, with the annual reports of the factory inspector and the commissioner of labor, and with the industrial history of Rhode Island.**
3. **Acquainting each new inspector thoroughly with the method of filling in forms and with the filing system.**
4. **Sending every new inspector into the field with each experienced inspector and into different types of industrial establishments, to observe and to make inspections under observation during at least a four week's training period.**
5. **Establishing a pension system for inspectors to provide for those who have grown old in the service.**

III. Appropriations

Rhode Island is a small but highly industrialized state. Its population of approximately 700,000 is for the most part urban. Reports of factory inspections in 1929 indicate that the working conditions of more than 195,000 men, women, and children, or more than one-fourth of the entire population of the state, are subject to inspection under the law.

Such an important function, effecting the lives of so large a portion of the people, certainly deserves adequate financial support from the legislature. But in 1929, after 36 years of this state service, the Rhode Island legislature appropriated only $16,500 for factory inspection. This amount was distributed by the legislature as follows: Salaries, $12,700; general expenses, $3,700; supplies, $100. At the end of 1929, there was a deficit, largely accounted for by the purchase of a new office typewriter to replace a second hand machine purchased twenty years ago. The chief inspector reports that many needed improvements in administration are blocked by the inadequate appropriations.

The salary of the chief inspector in 1929 was $3,000; of the deputy chief, $2,500; of the three assistant inspectors, $2,000 each; and of the office clerk, $1,200. With such low salaries and with no provisions for advancement within the service, the inspection service can not be expected to attract and retain men and women

of special training and ability. Meagre increases in salaries made at the completion of this study in 1930 (see footnote 11, page 12) do not substantially change this situation.

The significance of these figures can perhaps be made clearer by a comparison. In 1894, when the factory inspectors enforced only a few simple laws, two inspectors visited 294 establishments employing 60,326 persons. In 1929, with additional provisions relating to women and children, and to safety and sanitation, four inspectors reported visits to 9,248 establishments employing 195,235 persons. The expenditures in 1894, aside from salaries, were $1,000; in 1929, they were not quite $4,000. On the face of it, this indicates that twice as many inspectors accomplished thirty times as much work with four times the amount of money.

Without attempting to ascertain whether the four inspectors could actually accomplish the work reported, there still remains the immense increase in amount of work to be done in contrast with the small increase in amount of expenditures. It might be extravagant to suggest that the state should allow an increase in expenditure equal to the increase in work to be done, namely, $30,000; but to double it, and make it $8,000, would be a very conservative recognition of the need.

The commissioner of labor has also failed to receive sufficient appropriations from the legislature. In his report for 1928, he declares that in order to allow his department to perform its duties under the workmen's compensation law it has become "highly necessary that increased means be provided." Moreover, it was reported that although the work of the commissioner is closely associated with the adjustment of compensation claims, he supplements his low salary by engaging in the insurance business.

Recommendations

An adequate factory inspection service can not exist so long as the work is inadequately financed. Reasonably sufficient appropriations would include provision for:

1. **An increase in the number of field inspectors[10] to eight; and in addition at least two specialists—preferably one on ventilation and exhaust systems, and one on structural engineering.**

[10] Closely following this investigation the Rhode Island legislature, on April 16, 1930, increased the number of field inspectors from four to five.

2. **An increase in the salary of the chief inspector to $5,000, and that of the deputy chief to $4,000; and a sliding salary schedule from $2,000 to $3,500 for assistant inspectors,[11] promotion to depend upon service record and ability shown.**
3. **Two office clerks, one at a salary of $1,680, the other at $1,500.**
4. **At least double the appropriation for other expenditures.[12]**

IV. Administrative Methods

The many deficiencies in Rhode Island's labor laws, not to mention the insufficient appropriations, are naturally reflected in the methods of administration. Many shortcomings of the factory inspection service may be traced to the legislature. But while some of the defects must await urgently needed legislative action, the following analysis of administrative methods discloses some which might be mitigated in part despite the difficulties presented by inadequate legislation.

Division of Work

For inspection purposes the chief factory inspector has divided Rhode Island into four districts, each under the supervision of one inspector. This territorial division of work, based upon number of establishments and area to be covered, is, however, not stritcly observed. An inspector may be asked to go into another district to investigate accidents or complaints or to help in the year-end clean-up.

Although some authorities believe that the technical efficiency of inspection may be increased by assigning inspectors to particular classes of establishments or to the enforcement of particular requirements of the law in all establishments, there is practically no such specialization in Rhode Island. The nearest approach to it has come about because the woman inspector does not wish to inspect machine shops and metal manufacturing plants. For this

[11] On April 16, 1930, the legislature also increased the salaries of the factory inspectors as follows: Chief factory inspector, from $3,000 to $3,200; the former deputy (now first deputy) inspector, no increase (salary: $2,500); two former assistant (now second and third deputy) inspectors, from $2,000 to $2,500; and the woman (now fourth deputy) inspector, from $2,000 to $2,300. The salary of the new fifth deputy inspector is also $2,300.

[12] The legislature, in the same act on April 16, 1930, appropriated an additional $450 for such expenses during the year ending June 30, 1930, and an additional $800 in the general appropriations act.

reason, the deputy-chief inspects these establishments in the woman's district, while she covers all mercantile establishments in his district.

Supervision

The four inspectors work with very little direct supervision from the chief factory inspector. There is no periodical assignment of work. Each inspector selects from the office files a sufficient number of establishments to last him a few weeks. He selects them so as to make the date of inspection different from the previous year, and chooses the larger establishments first, so as to leave the smaller ones to the end of the year. A duplicate file of the establishments so selected is kept by the office clerk. When these establishments have been inspected, the inspector returns with his reports and takes another group. The inspector may mail his reports to the office before he himself returns, but this is not required by the chief.

In case of a complaint, an inspector from another district is sent by the chief to check up the regular inspector's work. But complaints received by the regular inspector in a district are investigated by him and are later reported to the chief. Accident inspections are assigned to the regular inspector of the district or to any inspector who happens to be at the office when the accident report arrives.

Such is the extent of the supervision exercised by the chief inspector over his assistants. Ordinary work is not assigned. Aside from the inspection reports, there is no record to show how the inspector spends his time. Inspectors return to the office at their own discretion; and while they are away, the chief inspector's knowledge of their whereabouts is based solely upon the duplicate file of establishments left with the clerk. The chief inspector makes no inspections to check the work of his assistants; and no conferences are held to discuss common problems, although individual inspectors thrash out occasional difficulties with the chief.

The chief inspector explained that in his opinion it is impossible to lay down rules regarding the number of inspections to be made or the length of time required; and that he must place confidence in his assistants. Furthermore, detailed reporting would require more clerical help than his appropriations allow.

Nevertheless, because of absence of close supervision and co-operation the inspectors lack the stimulation of either reprimand

or encouragement; they are wanting in vital interest or alertness in the work of improving working conditions; and they have little concept of public service to the workers of the state. The service "goes along" in a prosy, uninteresting way, with a consequent absence of public interest in its activities.

Equipment and Records

A Rhode Island factory inspector in making his inspection tour, carries with him no mechanical testing equipment, because there are no specific rules for ventilation, temperature, or humidity. His only equipment consists of a supply of two printed notices, four blank forms, and "no smoking" signs.

The "no smoking" signs are a part of the persistent drive for clean bakeries and although they are not required by law, the factory inspector leaves them in all such establishments. The two notices are copies of the laws, one applying to all establishments and the other to bakeries and confectionary and ice cream establishments. They are large posters to be placed in every room of all establishments subject to inspection, as required by law.

The four blank forms are printed on 5x3 cards, and upon them the inspector writes his findings while making the inspection. One form is for all establishments employing children or more than five employees; one, for bakeries with more than five employees; one, for bakeries or stores with fewer than five employees; and one (seldom used), to record non-conformance with fire exit laws.

The nature of the form upon which a factory inspector makes his report is an important element in enforcement of factory laws. The information recorded thereon is a check upon the thoroughness of the inspection. It provides a record upon which to base further action of the bureau in regard to any establishment, any industry, or all industries. It is the record by which progress in enforcement, or the reverse, can be measured.

The general inspection form used by the Rhode Island inspector requires only eight points of information to be recorded: (1) the name of the establishment, (2) the address, (3) the goods manufactured or sold, (4) the number of males and females over 16 years of age, (5) the number under 16, (6) sanitary condition, (7) the date

of inspection and (8) the name of the inspector. Two lines are added to record any recommendations or remarks.

Since the enactment of the 1929 law requiring the employer to report the number of his employees, most of this is duplicate information. For purposes of labor law enforcement, it is of little or no value. In fact, the form was originally designed to supply data to be included in the annual report of the factory inspector, which has not been published since 1921. It provides no evidence of the excellence of the inspector's work. It does not even give any assurance that the inspector has visited the establishment reported, because the information required may easily be secured by telephone. This form discourages conscientious, accurate inspection work, and is a positive incentive to carelessness and dishonesty.

In the case of accident and complaint investigations, only oral reports are made to the chief factory inspector. Moreover, no record of violations is kept when prosecution is not undertaken. Letters of complaint are destroyed.

Because of their failure to record any but the most meagre and unilluminating information, coupled with the failure to keep a record of all activities, the inspector's office has no means of knowing the number of actual visits made by each inspector, the number of complaints it has received and their nature over a period of time, or the number of accidents investigated and what such investigations are disclosing, And it has no history of the status or degree of compliance in any or all establishments in the state. In short, the office of factory inspector in Rhode Island has no means of knowing anything of the quality or the results of its work. It cannot measure even the quantity of its work, as it has no record of the entire amount performed.

Enforcement Procedure

In making inspections, the factory inspector centers attention upon the enforcement of the sections of the law which are explicit, namely those which regulate the sanitation of bakeries, the employment of children, women's hours, and the obstruction of passageways. But he ignores anything except the most obvious violations, when it comes to the general standards of safety and sanitation. Such matters as lighting, ventilation, machine guards, and unsafe practices are for the most part disregarded. Only where a glaring

hazard is observed, such as a rapidly revolving pulley or belt near the floor or near a worker, a floor perilously slippery or wavy, or a gaping hole unrailed, does the inspector take notice of accident hazards.

This laxness is to be expected in view of the absence of detailed safety regulations. Until Rhode Island provides its inspectors with an explicit safety code and requires them to enforce it, industrial hazards will continue to be neglected.

Special Investigations

Besides discovery in the course of a regular inspection, there are two ways in which a violation of the law may come to the attention of the Rhode Island factory inspectors: (1) through an accident report, or (2) through a complaint.

The accident reports, which the chief factory inspector receives from the commissioner of labor, are examined, and an investigation is made where the accident reflects upon the enforcement of the law by a factory inspector. Accidents to children, accidents occurring on machines, and fatal accidents are always investigated when reported.[13] An inspector visits the scene of the accident and inquires of the employer how it happened. If a hazard is found to exist, the inspector may order a change in work conditions or the use of a safety appliance. If the victim happens to have been an illegally employed minor, the child is visited and action against the employer may be begun. No record is kept of the investigation unless prosecution is to be instituted; and the factory inspector destroys his copies of the accident reports after two years.

Special investigations are also made upon complaints. If it is an hours complaint, the inspection is made if possible after the legal or posted hours, and the inspector seldom announces his visit. In other types of complaints, the inspector announces his presence at the office of the establishment and goes directly to the place complained of.

Violation Procedure

If a violation of the hours of labor provision is established; if a child under legal working age is found working, even though discharged promptly; or if a child is found working without an em-

[13] See p. 6.

ployment certificate, but a certificate is promptly procured, court action is not always begun, unless the discovery is made as a result of a complaint from some source which is critical of the factory inspector's work, or the employer is a repeated offender.

The inspectors regard the absence of the legally required posted notice of hours as a violation meriting prosecution if continued, but if workers are employed at other than the hours posted, the violation is not considered serious enough to warrant prosecution, unless the legal limit of employment has been exceeded. The law stipulates that if a person is employed for a longer period in 24 consecutive hours than stated in the notice, it constitutes a violation; but this violation is considered too technical to risk prosecution if the hours law has otherwise been observed.

In case the inspector judges that some unsafe or unsanitary condition should be corrected, he notifies the chief orally and a letter is written ordering the condition to be changed and setting a time limit for compliance. Usually the order relates to the obstruction of passageways about which the law is specific. Inspectors follow up these letters, and if compliance is not effected at the time stated in the order, an extension of time is granted. Failure to comply as ordered in Rhode Island does not result in prosecution. The letters are few—only about six or seven being written in a year.

Prosecutions

A violation of any of the regulatory labor laws in Rhode Island is a misdemeanor. When prosecution is decided upon, the inspector swears to the complaint and the sheriff serves the summons. The inspection records, however, do not carry the name of a responsible person in the offending establishment, therefore the chief inspector has to secure this name from the office of the Secretary of State or from a city clerk's office.

Penalties for violations of the labor laws range from not more than $50 for the minor offense of failure or refusal to produce an employment certificate, to not more than $500, for violating any other provisions of the chapter. Specific penalties are stipulated for violations of the provisions relating to bakeries and to women's and children's hours.

The chief factory inspector has been unusually successful in securing favorable decisions from cases prosecuted. But he has also

shown unusual caution in the selection of cases. None but the strongest kind of case has been prosecuted, and the consistent backing he gets from the courts is due in a large measure to their faith in his evidence. The majority of cases prosecuted have been for violations of the child labor law and women's hour law.

During the year ended December 31, 1929, twenty-two prosecutions for violations of the labor laws were instituted before the district courts of the state. Four were for employing children under sixteen years of age without certificates; four, for exposing food; two, for employing children after 7:00 P. M.; seven, for violation of the women's fifty-four hour law; four, for making false statements regarding the ages of children; and one, for smoking in a bakery. They were all successfully prosecuted, and resulted in fines totaling $445 for the entire year.

Recommendations

Needed improvements in administrative methods may be grouped under two headings: (A) supervision of inspection, and (B) reports and records.

A. In order to secure more efficient performance on the part of factory inspectors, experience has shown the advantage of:

1. **Assignment of all routine inspection work by the itinerary method, selecting the establishments on the basis of size, accident record, and violation record.**
2. **Special investigations, after the legal or posted working hours, of establishments employing women and children.**
3. **Assignment by the chief inspector of all inspections made to investigate compliance with written orders from the inspection bureau.**
4. **Assignment by the office of all complaint and accident investigations.**
5. **Irregular and unexpected inspections by the chief or deputy chief inspector of establishments which have been reported as inspected by regular inspectors.**
6. **Regular weekly or monthly conferences of the inspection staff to discuss difficulties and problems of enforcement.**

B. The system of reports and records used by the Rhode Island factory inspector is in urgent need of revision. An adequate system would include:

1. **Weekly reports of all inspections and visits made by each inspector, together with a record of findings.**

2. **An improved inspection report form printed on stiff cardboard—preferably 5 x 8 in size—for recording the status of compliance in respect to every provision of the law, and providing space for keeping a record of other visits to the same establishment.**[14]
3. **A filed index card for each establishment, upon which can be entered from the inspection report a permanent record of the salient points of every inspection and every visit made.**
4. **A written report of every accident investigated.**
5. **Printed order forms or uniform typewritten letters for ordering changes under the general safety and sanitation law.**
6. **A printed annual report of the factory inspector.**

The State of Rhode Island, with her concentrated industry and small area, has an exceptional opportunity to unify the administration of its labor laws, including workmen's compensation, bringing all activities in this field into close and harmonious relationship in the interest of better labor laws better enforced. In this effort, employers, employees, and the citizenship as a whole are interested in securing an efficient administration which will protect the conscientious employer from undercutting by less scrupulous competitors; which will carry out expeditiously and surely the primary purposes of protective regulations for wage-earners; and which, finally, will assure to the community as a whole a responsible supervision of industrial activities: Fair to the employer, just to the worker, and beneficial to all citizens of the state.

[14] The investigator, with the cooperation of experienced administrators, prepared a suggestive draft of a report form in accordance with this recommendation, and it was submitted to the chief factory inspector for his consideration.

Expenditures for Labor Law Administration[1]

HOW much money are the states spending to administer their labor laws? What has been the growth in these expenditures over the past forty years? To what uses has the money been put? How do expenditures compare from state to state? The figures here presented are in answer to these questions.

It is not to be assumed that expenditures are an adequate measure of the effectiveness of the administration of labor laws. Many less tangible factors enter in, such as efficiency of personnel and methods of work. Without adequate appropriations, however, even the best labor department cannot function efficiently.

Total Expenditures in 1927

The total amount of money spent by the forty-eight states to operate and maintain labor and mining departments was $9,280,000 in 1927.[2] In contrast to state administration, federal administration of labor laws assumes a relatively small place in the United States, because jurisdiction over employment relations is largely reserved to the state governments. In 1927, $1,695,000[3] was spent by the Federal Government in its activities comparable to the activities of the states in administering labor laws. Of this amount nearly half went to statistics and research, and smaller proportions to conciliation, mine rescue and employment service. Expenditures for vocational rehabilitation and for vocational education are not included in the above figures nor in those which follow, since they are not exclusively labor laws.

Growth in Amount of Expenditures

How much the expenditures of the state governments as a whole have increased since 1889 may be gauged by the growth known to

[1] Summary of a study, "Expenditures for the Administration of Labor Legislation in the United States, 1889 to 1927," by Elizabeth S. Johnson, Department of Economics, University of Wisconsin.

[2] United States Census Bureau, *Financial Statistics of States*, 1927, p. 80.

[3] Compiled from federal reports.

have taken place in a few selected states. Eleven states were chosen for analysis as being representative of different geographical areas of the United States and of both manufacturing and agricultural regions.[4]

The statistics for these eleven states summarized in Table I show their aggregate expenditures for administering labor laws to have increased from $200,000 in 1889 to $5,500,000 in 1927. This increase in actual dollars spent exaggerates the growth of activities in administering labor laws because it neglects the great changes in the purchasing power of the dollar. Converting the actual dollars into 1909 cost-of-living dollars the increase is not quite so great—a growth from $235,000 in 1889 to $3,300,000 in 1927, or an increase of 1,291 per cent.

TABLE I

EXPENDITURES FOR LABOR LAW ADMINISTRATION, 1889 TO 1927

ELEVEN SELECTED STATES COMBINED[1]

Year	Actual Dollars	1909 Dollars	
		Dollars	Relatives 1909 = 100
1889	$202,549	$235,796	29.1
1899	405,790	481,364	59.5
1904	512,569	540,115	66.7
1909	809,232	809,232	100.0
1914	2,081,992	1,984,740	245.3
1919	3,324,081	1,802,647	222.8
1923	4,455,294	2,656,705	328.3
1927	5,577,628	3,280,958	405.4
Per cent of increase 1889 to 1927		1,291	

[1]California, Connecticut, Illinois, Kansas, Massachusetts, Mississippi, Missouri, New Jersey, New York, Virginia, and Wisconsin. Data compiled rom state reports.

This picture of growth over the years should, in the mind's eye, be set against the increasing demands for administrative activity.

[4] California, Connecticut, Illinois, Kansas, Massachusetts, Mississippi, Missouri, New Jersey, New York, Virginia, Wisconsin. In 1927 there were in these eleven states nearly half (43 per cent) of the wage-earners in manufacturing and mining in the United States; and these eleven states spent over half (55 per cent) of the money spent by the forty-eight states for labor law administration.

New types of laws have been added. Old laws have become more and more extensive as the result of repeated amendments and administrative orders. The increase in the number of wage-earners and establishments in manufacturing prior to the last decade has been enlarging the burdens of administration. Between 1889 and 1927 the number of wage-earners in manufacturing in these eleven states more than doubled (+107 per cent) and the number of manufacturing establishments increased by nearly half (+43 per cent).

The amount of increase in state expenditures for labor law administration has been unevenly distributed over the successive periods. A spectacular advance came between 1909 and 1914 when expenditures more than doubled in amount, increasing by over a million 1909 dollars. This increase coincides with a great expansion in labor legislation during this same period, from which date the modern safety laws and the first workmen's compensation and minimum wage laws.

Uses of Money Spent

A classification of the uses to which the money spent has been put is shown in Chart I. This gives the expenditures per wage-earner in manufacturing and mining in 1909 dollars for five states, considered as a whole, for which the information was available.[5] In 1927, these five states represented 28 per cent of all wage-earners employed in manufacturing and mining in the United States, and 40 per cent of all state expenditures for labor law administration.

Inspection was the most important single activity for which the money for labor law administration was spent from 1889 to some time between 1919 and 1927, when the administration of workmen's compensation became financially the largest activity. But while expenditures for inspection were assuming a smaller and smaller place relative to all expenditure for labor law administration, they were increasing in absolute amount. In 1927 practically 30 cents per wage-earner in manufacturing and mining were spent for inspection compared to six cents in 1889, expressing the money spent in terms of its 1909 purchasing power. The increase came chiefly in two jumps: in the 1890's and in the 1920's.

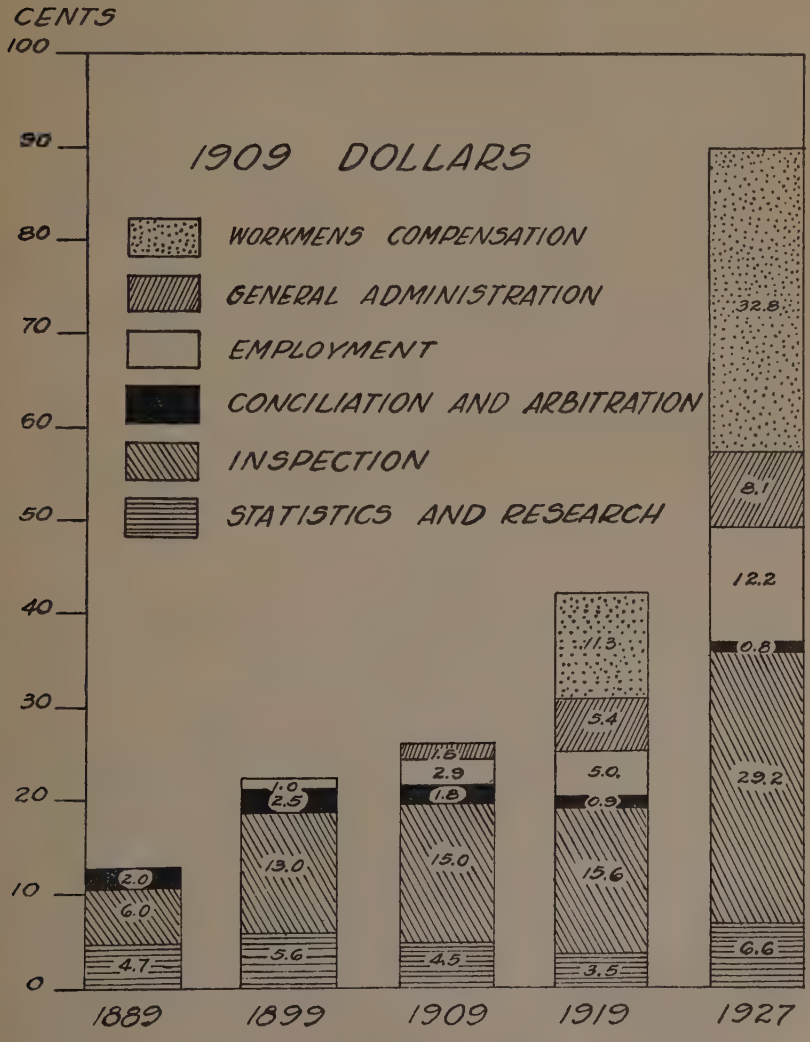
Statistics and research, historically the oldest field of activity for state labor departments, has steadily declined in relative position, but

[5] Connecticut, Illinois, Massachusetts, Mississippi, New York.

CHART I

USES OF STATE EXPENDITURES FOR ADMINISTERING LABOR LAWS, 1889 to 1927

FIVE SELECTED STATES COMBINED[1]
EXPENDITURES PER WAGE-EARNER IN MANUFACTURING AND MINING IN 1909 DOLLARS[2]



[1] Connecticut, Illinois, Massachusetts, Mississippi, New York.
[2] Compiled from state and federal reports.

the expenditures for this purpose have fluctuated around a constant amount throughout the period, five cents per wage-earner in manufacturing and mining in 1909 dollars. The only major activity that has declined both absolutely and relatively is conciliation and arbitration. In 1927 less than a cent per wage-earner in manufacturing and mining in 1909 dollars was spent for this purpose. Employment service has steadily risen in rank among the other activities of labor law administration with the expenditures per wage-earner in manufacturing and mining increasing from one cent in 1899 to 12 cents in 1927, in terms of 1909 dollars.

Over a third of the total expenditures for the administration of labor laws in 1927 was used in administering workmen's compensation. In money of 1909 value, 33 cents per wage-earner in manufacturing and mining were spent for this purpose in 1927.

When dealing in terms of expenditures per wage-earner in manufacturing and mining it should be borne in mind that this figure is almost double what the expenditures would be per wage-earner if all wage-earners likely to be affected by labor laws were included. An estimate made for 1920 shows the number of wage-earners in manufacturing and mining to be but 52 per cent of all wage-earners, including also those in the building trades, clerical work, trade and transportation.[6]

Several States Compared

The above composite picture of several states conceals the great disparity existing among the states in their expenditures for administering labor laws.

To make comparisons between states of different sizes some common unit of measurement must be adopted. Two convenient ones are the expenditures per wage-earner and the proportion which expenditures for labor law administration bear to all expenditures of the state government. The exaggerating effect of using expenditures per wage-earner in manufacturing and mining, the only wage-earner figure available, has just been noted. Other disadvantages of this wage-earner figure are that the proportion of all wage-earners to those in manufacturing and mining is not constant for the states, and that a single per wage-earner figure takes no account of the

[6] Leo Wolman, "Growth of American Trade Unions, 1880 to 1923," p. 77.

wage-earners in specially hazardous occupations, such as mining, where the cost of administration is high. Contrasting the states on the basis of the proportion of the total state expenditures which goes to labor law administration also has some limitations. Such a percentage figure is affected by the scope of the other activities which are considered state affairs as well as by the extent of labor law administration. For example, in 1927 state contributions to the support of local schools in the eleven selected states ranged from five per cent of the expenses of operating and maintaining all state departments to nearly 40 per cent. Yet with all these limitations, these bases of comparison are the best available and do give some clue to relative expenditures in the several states.

The eleven states are listed in Table II according to the amount of their expenditures per wage-earner in manufacturing and mining. The second column shows the proportion which the expenditures for labor law administration bear to the total expenditures for operating and maintaining government departments.

TABLE II

EXPENDITURES FOR SELECTED STATES COMPARED 1927

States	Expenditures per wage-earner in manufacturing and mining[1] (actual dollars)	Proportion for labor of all expenditures for operating and maintaining government departments[2] (per cent.)
California	$2.20	.97
New York	2.16	1.51
Illinois	1.30	1.97
Wisconsin	1.21	.85
Massachusetts	1.10	1.18
Kansas	.96	.13
Missouri	.89	.87
Virginia	.88	.50
Connecticut	.69	.82
New Jersey	.63	.47
Mississippi	.11	.04
Eleven states combined	1.40	1.11

[1]Data compiled from state and some federal reports.

[2]Data compiled from United States Census Bureau, *Financial Statistics of States, 1927*, pp. 74, 80.

The expenditures per wage-earner in manufacturing and mining in these eleven states range from $2.20 in California down to 11 cents in Mississippi. The range in the proportion which expenditures for labor law administration bears to expenditures for all state departments is even greater, from 1.97 per cent in Illinois to .04 per cent in Mississippi.

California and New York far exceeded the other nine states in expenditures per wage-earner in 1927, each with expenditures over $2 per wage-earner in manufacturing and mining. California, however, spent for labor but one per cent of all expenditures for the state government departments, a proportion no larger than that for the eleven states as a whole. New York's large expenditure per wage-earner represented a proportion of the state's total expenditures which was higher than that for any of the other states except Illinois. Wisconsin, known for its progressive labor legislation and administration, has achieved this reputation without spending as much per wage-earner as the average for the eleven states.

In making comparisons between states as well as over a period of time it should be borne in mind that there are very great differences in the scope of the labor legislation of the several states. New York and California, for instance, had far more comprehensive labor laws in 1927 than Mississippi, where the only administration provided for was the inspection of factories employing women and children.

Conclusion

The expenditures of the states for the administration of labor laws have increased markedly during the period from 1889 to 1927, considered both in actual dollars and in dollars corrected for their decreasing purchasing power. Moreover, the increase in expenditures has greatly exceeded the increase in the number of wage-earners and establishments in manufacturing. But whether this increase in expenditures for administering labor laws has kept pace with the increased burden of the growing volume of legislation may be questioned. Even today, in most states, the annual expenditures for labor law administration amount to less than a dollar and a half per wage-earner and to less than one per cent of the total expenditures for state government.

Public Opinion Flays Judicial Approval of "Yellow Dog" Contracts

By Cornelius Cochrane

WITH dramatic force, the nomination of Judge Parker of North Carolina to the United States Supreme Court furnished the occasion for an effective expression of public sentiment against the "yellow dog" contract. His rejection was due in large measure to a decision in 1927 when he upheld the validity of this anti-union agreement.

The "yellow dog" contract whereby workers are compelled in writing to promise as a condition of employment that they will not join a labor organization was put squarely up to the American people as never before. It was a clearly defined issue throughout the bitter controversy which resulted in the rejection of Judge Parker on May 7 by the Senate. As pointed out by the New York *World* the next morning in a careful analysis of the vote, the negro question, which entered the discussion, was not a controlling factor. **Public opinion in an unprecedented and dramatic fashion has rendered its verdict: It has damned the "yellow dog" contract.**

Attention was called early in this Review to the seriousness of this issue, and again to the campaign against the "yellow dog" contract when a carefully prepared bill was first introduced in Ohio in 1925.[1] This proposal which was drafted with the assistance of the American Association for Labor Legislation in cooperation with outstanding legal experts declares these contracts to be against public policy. Notable progress in the campaign has been made in a number of states,[2] and last year the bill was enacted into law by the Wisconsin legislature.[3] Already the Wisconsin circuit court

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[1] See "Attacking the 'Yellow Dog' in Labor Contracts" by Cornelius Cochrane, American Labor Legislation Review, Vol. XV, No. 2, June, 1925, pp. 151-154.

[2] See "Labor's Campaign Against 'Yellow Dog' Contracts Makes Notable Gains" by Cornelius Cochrane, American Labor Legislation Review, Vol. XVII, No. 2, June, 1927, pp. 142-145.

[3] See "'Yellow Dog' Abolished in Wisconsin" by Cornelius Cochrane, American Labor Legislation Review, Vol. XIX, No. 3, September, 1929, pp. 315-316.

has declared this 1929 law constitutional and it will come before the State Supreme Court in June. Sooner or later the United States Supreme Court will pass upon the constitutionality of this pioneer statute. The fight against the Parker nomination is another manifestation of a determination to legislate the "yellow dog" agreement out of existence.

Labor opposition to Judge Parker was based on his decision in the Red Jacket Consolidated Coal and Coke Company case[4] when he sustained an injunction issued by Judge McClintic of the Federal District Court of West Virginia. This injunction restrained the officers and members of the United Mine Workers of America from inciting, inducing or persuading employees of the Red Jacket Coal Company to break their "yellow dog" contracts.[5]

The brief prepared by the Department of Justice in defense of Judge Parker in which it was argued that he was bound to rule as he did because of the precedent established by the Hitchman case[6] of 1917 does not impress those who believe that the Supreme Court is top-heavy with ultra-conservative jurists who already have demonstrated unwillingness to make decisions in keeping with changing conditions in modern industrial life. During the ten years which elapsed between that decision and the opinion written by Judge Parker, changing conditions had culminated in a situation so critical as to call for a re-examination of the facts which created the existing acute social and economic problem. Opportunity to distinguish between the cases was apparent to one with sufficient breadth of vision to recognize that the Hitchman decision does not necessarily control under all circumstances and all conditions. The New York Court of Appeals in 1928 refused to enjoin the American Federation of Labor from organizing employees of the Interborough who had signed "yellow dog" contracts.[7] Even if Judge

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[4] Red Jacket Consolidated Coal and Coke Co. v. Lewis, et al, C.C. A. 4th, (18 F. (2d) 839.

[5] For a discussion of the relation between the "yellow dog" contract and the injunction, see "Why Organized Labor Is Fighting 'Yellow Dog' Contracts" by Cornelius Cochrane, AMERICAN LABOR LEGISLATION REVIEW, Vol. XV, No. 3, September, 1925, pp. 227-232.

[6] Hitchman Coal and Coke Co. v. Mitchell, 245 U. S. 229.

[7] Interborough Rapid Transit Co. v. Lavin, 247, N. Y. 65, See "Branding 'Yellow Dog' Contracts" by Cornelius Cochrane, AMERICAN LABOR LEGISLATION REVIEW, Vol. XVIII, No. 1, March, 1928, pp. 115-116.

—New York Telegram

At Last!

Parker felt constrained to follow the Hitchman precedent of 1917 he could have managed to give some evidence of his disapproval of it, were he so inclined.

Again and again during the Senate debate which began on April 28, the "yellow dog" contract was denounced in scathing terms. Senator Johnson in a vehement attack on the Red Jacket decision branded such contracts as **"socially wicked, economically unsound and morally infamous."** Senator Borah declared this type of contract to be **contrary to public policy** because it places the workingmen in a position of inequality, in a position where they cannot pro-

tect their interests against the employers. They are surrendering a vital personal privilege, which it is not in the interest of the public to do. No Senator—not even the most ardent supporters of Judge Parker—undertook to defend these anti-union agreements as sound or just or humane.

Said President Green of the American Federation of Labor: "The reports which reach our office show that the working people in all sections of the country are aroused as never before in opposition to the selection of a member of the Supreme Court of the United States."

The Scripps-Howard Syndicate on April 26 pointed out editorially that "in the ten years that elapsed between the two decisions the principle of the yellow dog contract had been **repudiated by intelligent public opinion.** And the very notion of slavishly following judicial precedent has fallen into disrepute in the law. * * * The yellow dog contract, in effect, deprives the worker of the right to organize for his own protection in his dealings with organized wealth. **No instrument ever devised so viciously attacks this fundamental right."**

Employer Had Unclean Hands

The Wisconsin Supreme Court has handed down a decision dissolving the injunction granted on December 21, 1928, by Circuit Judge Gehrtz in the case of Adler and Sons of Milwaukee vs. the Amalgamated Clothing Workers of America. The original injunction prohibited mass picketing and acts of violence, and enjoined the company from attempting to make its employees sign yellow-dog contracts. The Supreme Court declared that the plaintiff in abrogating its union agreement had "pursued a course of conduct naturally calculated if not deliberately intended to bring about the very conditions which led it to appeal to the courts" and that "a court of conscience will not extend its strong arm to protect one who has pursued such a course of conduct."

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[1] See "New Developments in Labor Injunctions," by Edwin E. Witte, AMERICAN LABOR LEGISLATION REVIEW, Vol. XIX, No. 3, September, 1929, pp. 311-312.

Council of Churches Reports on Labor Injunction

A REPORT[1] on the use of injunctions in labor disputes, the result of several years study, has recently been issued by the Research Department of the Federal Council of Churches.

This report includes an explanation of the various uses of the injunction and a discussion of the underlying judicial theory and practice and the procedure followed in granting injunctions. Interesting are the opposing briefs—the labor argument by William Green and the employers' argument by Walter Gordon Merritt. Among the judgments which "have crystallized out of the process of study and conference" are: That courts should not enjoin interference by unions between employers and workers who have been required to sign anti-union promises as a condition of employment; that picketing, when unaccompanied by act of violence or intimidation should not be enjoined; that the court in every case where an injunction is granted should make a formal finding of facts; that in contempt proceedings growing out of alleged violation of a labor injunction the defendants should have the right of trial by jury.

Another Noise Nuisance

The editor of *The Century*—jubilant over the appointment of the Noise Abatement Commission—is plunged into immediate despair by a preliminary announcement that "we need a scientific statement of the effect of noise on the human being," and he cynically closes the same editorial with an appeal for some device "that really makes the ears sound-proof." Of such metal are many of our social reformers made!

[1]Department of Research and Education, Federal Council of Churches, Information Service, Volume IX, No. 10, March 8, 1930.

Commission Administration of Compensation

(*From an address at New Orleans, December 1929, by T. A. Wilson of the North Carolina Industrial Commission.*)

IT is essential to the successful operation of a workmen's compensation law that a board or commission be created to administer the act. This principle is now generally accepted.

"Court administration is slow, complicated and costly, and tends, because of these inherent difficulties, to defeat the very purpose of workmen's compensation legislation. Among the chief arguments for the passage of workmen's compensation laws was the well known delay and waste attendant upon damage suits.

"Another serious objection to a court system of administration is its tendency to foster 'direct settlements.' Rather than spend the time and money necessary for the successful completion of court cases, the great majority of employees are led to make direct settlements of their claims with the employer or insurer. Investigations in state after state have demonstrated that wherever direct settlements are common serious underpayments of injured workers result.

"A further serious defect in court administration of workmen's compensation laws is its failure to reach injured employees who are either ignorant of their legal rights or afraid to press them for fear of losing their jobs. Courts hear only such claims as are formally brought before them. An administrative commission, on the other hand, is in a position to follow-up accident reports, to disseminate information about the law, and to take the initiative in securing compensation for all those entitled to it.

"Again, the court system of administration is entirely unequipped to capitalize the preventive possibilities of a workmen's compensation law. Through the tabulation and analysis of statistics and through organized safety campaigns an administrative commission is able to make the state compensation law a vital force in accident prevention.

"Finally, without an administrative board, a compensation system lacks an official representative whose important duty is to observe the law's workings and to report periodically to the legislature any defects or needed amendments."

Failure of Court Administration of Workmen's Compensation in Louisiana

By Isaac S. Heller
Attorney at Law, New Orleans

IN 1914 the Louisiana legislature adopted a system of payment for accidents in industry, which represented at that time a most advanced scheme of workingmen's compensation under court administration. We have had this law now for over fifteen years, and we should know fairly well its merits and its demerits.

The following observations are submitted in the hope that the experience of this state will serve as a bad example to states which may contemplate following it, and in the further hope that before long, our legislature will see the light and create a properly safeguarded commission for the handling of compensation cases.

The law was enacted after an exhaustive investigation of conditions in this and other states by a competent and conscientious commission. The statute has been applied to industry, and has sought to fulfill its mission of lessening the number of industrial accidents, of more equitably distributing the burden thereof, and of rehabilitating, as far as possible, the individual victims and their families. It should be admitted at the outset that the enactment of this statute constituted a distinct step forward from the old hodge podge, hit or miss, system of damage suit practice. We had the anomalous situation of a state which claimed its legal ancestry in the civil law struggling with the enforcement of tort rights which were supposedly covered by but one article of the civil code (the famous 2315), and which had to be particularized and enforced by common law jurisprudence. Although the enactment of this statute improved the situation, we have had an excellent example of the truth of the proverb so well expressed by the German poet, that "The better is the enemy of the best." The improvement has virtually precluded the attainment of a proper system of compensation administration. The statute has been in effect over fifteen years, and except for minor changes is still law.

As to its operation, it would be difficult, really impossible, to estimate how adequately or inadequately industry has been served. One can only speculate as to how far the statute has fulfilled or failed to fulfill its purpose, whether it has lessened accidents, whether it has more equitably distributed the cost of them, whether it has tended to rehabilitate those who have suffered, the men and their families.

The reports of the Supreme Court show that the law has not claimed its share of consideration. The records of the lower courts shed almost no light on the efficacy of this statute. The admitted necessity for adequate statistics with respect to the casualties of industry, the admitted desirability of knowing what is going on, what problems exist, and how they are met, all of this on the one hand, and on the other the array of printed forms or multigraphed petitions with which one is confronted if one attempts an investigation, these factors in themselves prove **the situation can never be met by the administration of a compensation act by an agency which cannot of necessity really administer, which can only be a clearing house for the filing of papers, and which has no time or inclination to go into the merits of any case unless a manifest injustice is being done.**

One of the social agencies in New Orleans some time ago undertook an investigation of the operation of compensation statutes in this state. The investigators sought material for the basis of a thesis for or against court administration. They were confronted with dozens and dozens of cases, all very much the same, none of them casting any real light upon the subject. The records in their formality, in their monotony, in their lack of appreciation of the purpose they are to serve, proved the ineffectiveness of this system.

Let us take a case under our system from the time of the accident, and see what happens. Let us assume that there is no dispute as to the nature of the injury and the claim for compensation. Let us assume further that it is not necessary to employ an attorney and to pay him as the law provides. John Smith loses his right leg in the course of his employment in an industry covered by the act. Smith is the father of a large family, dependent upon him for support. The act clearly defines his rights, the proportion of wages he must receive for a prescribed number of weeks, and how he shall be paid. His employer is insured and notifies the insurance company, which in turn notifies its attorney on a form.

The attorney will receive probably twenty or thirty of these notices in the course of thirty days, and will not be bothered by drawing up a separate petition for each one of them. His fees are nominal, and he must not allow this matter to encroach too much upon his time. Probably through a subordinate he fills in blanks, which will include the following: a petition sworn to jointly by the employer, the insurance company and the injured man; an affidavit; and a judgment, all prepared in advance. He will like as not receive from the insurance company information that the injured worker has been persuaded to accept a lump sum settlement, and he will include that in his petition, affidavit and judgment. This will all be signed in due course, and according to law. Settlement will be made. There will be, in the case of the attorney who handles most of these, economy of operation which demands that he or his subordinate be not required to go to court with every one of these trifling suits, so that he will allow them to accumulate, and when a dozen or more have been received and executed, they will be sent to court and signed by the judge. **It is unthinkable that there can be supervision at all. It is unthinkable that such a procedure can result in any way in the lessening of the number of industrial accidents. It is unthinkable that the judge, except where the settlement is so outrageous as to strike him at first glance, exercises real supervision over the allotment of compensation.**

In nine cases out of ten, there is no contact between the court and the injured man or his family. The records are really worthless as a guide to the future, as an index of whether compensation is really compensation, as evidence of whether or not the family has been rehabilitated at all. **As real relief under a modern system where the state recognizes its obligation to the casualties of industry, this system is really worthless.**

How many cases received inadequate compensation or none at all, it is impossible to estimate. How many men are not settled with for minor injuries, how many men are threatened and cajoled into not asserting their rights, it would be futile to say. It is indeed an improvement over the common law defense in damage suits with the cut of the damage suit lawyer. It is indeed progress along the road, but it is still a long way from fulfilling the promise that was made when the act was put into law, that the cost of industrial

casualty would be more equitably distributed, that accidents would be lessened, that the state would recognize its responsibility towards those men whose injury constituted a necessary cost of service, a necessary part of manufacture.

After all, the first step towards correcting evils of this sort is to turn on them the spotlight of publicity. We of Louisiana are realizing more and more the necessity of coming into line with the most progressive states in the enactment of labor laws that show the results of a proper understanding of these industrial groups. In 1926, the legislature vastly improved the situation by a progressive amendment to the existing law with respect to women and children in industry. In the present session, which convenes in May, 1930, a determined effort will be made to secure the passage of other measures.

It is to be hoped that the time will soon come when our legislature will realize that court administration can never mean real supervision, that our improvement has been the enemy of real progress, that we must look to the day when our compensation laws will be administered and supervised by a commission which shall be non-political, shall be possessed of adequate power, shall be vested with the right to be of real help in the preventing of industrial accidents, in the equitable distribution of their cost, in the rehabilitation of their unfortunate victims.

"The greatest stimulus of modern times to further investigations in the field of industrial hygiene has been the enactment of workmen's compensation laws. These laws gave a definite economic urge to the study of industrial conditions. Today industrial medicine is getting further away from the curative and nearer to the preventive aspects of the relations of the worker to his work."—*American Journal of Public Health.*

Occupational Disease Compensation in New York

Republican Majority Again Repudiates Its Pledge

YEAR after year the New York legislature has had before it a bill to extend the compensation law to cover all occupational diseases. New York got a bad start some years ago when the opponents of adequate compensation put over a limited list scheme. The legislature in 1930 followed blindly this "piece-meal" practice despite solemn pledges to the people by "responsible" political leaders.

Experience has demonstrated the existing "specific schedule" plan to be unjust and inadequate.[1] Under this system the victims of occupational diseases which do not appear on the list are denied compensation. Numerous poisonous substances in daily use are not included and additional forms of disease hazard are constantly being created through new industrial processes.

The all-inclusive principle embodied in the proposed bill—introduced at the beginning of the session at Albany by two prominent Republicans, Senator Mastick and Assemblyman Moffat—is in successful operation under ten[2] American compensation laws. Well-known authorities have repeatedly urged this complete protection which has been recommended by formal resolution of the American Association for Labor Legislation, the Association of Accident Boards and Commissions, the Commissioners of Labor and the Council of the Industrial Hygiene Section of the American Public Health Association.[3]

To compensate occupational disease victims on the widest possible basis increases the cost of workmen's compensation by only about one per cent. In fact the casualty rate makers have written that they would recommend a rate increase of not over one per cent if a

[1] See "All Occupational Disease Compensation," AMERICAN LABOR LEGISLATION REVIEW, Vol. XVIII, No. 4, December, 1928, pp. 374-376.

[2] California, Connecticut, Hawaii, Massachusetts, The Philippines, North Dakota, Wisconsin and the three federal laws.

[3] See "Occupational Disease Compensation," by John B. Andrews, AMERICAN LABOR LEGISLATION REVIEW, Vol. XIX, No. 3, September, 1929, pp. 237-240.

state which did not compensate occupational diseases should by amendment include them all. For New York which already covers 23 diseases, the additional cost to industry would be insignificent, although to the now unprotected individual victim of the occupational disease the loss may be a calamity.

The all-inclusive occupational disease bill, prepared through representative conferences by the American Association for Labor Legislation, was endorsed by the State Department of Labor in New York and is in line with the recommendation embodied by Governor Roosevelt in his annual message in 1929 and again in 1930, following a definite platform pledge by the Democratic Party. It is also supported by the Federation of Labor, the League of Women Voters and many civic and social welfare organizations. And the Republican Party on December 31, 1929, in its statement issued to the public from Albany on the eve of the opening of the legislature in which it held majority control, pledged itself to **"provide compensation of all workers disabled by disease directly caused by their employment."**

But the legislature thus controlled failed to adopt the effective and expedient principle of broad coverage and followed the piecemeal method of adding a few diseases to the list which can never provide really adequate coverage. Last year, an amendment recommended by the State Industrial Survey Commission to include eleven additional diseases was so emasculated during the process of enactment that the bill as finally passed included only four diseases of comparatively minor importance. This year another procrastinating step was taken and the list was extended by including blisters, bursitis, dermatitis and poisoning from radioactive substances. But the deadly silicosis and a number of other occupational disease disabilities are not compensable in New York! Why this discrimination and lack of equal protection? Why this repudiation of a pledge by the Republican Party?

Governor Roosevelt in signing this year's amendment expressed the hope "that my recommendations to the legislature to extend the provisions of the workmen's compensation law to all occupational diseases will soon be adopted by them, instead of this piece-meal method of adding a few diseases each year."

Short-sighted opposition to adequate compensation protection for the victims of occupational disease is led in New York by Associated

Industries, Inc., and by the Industrial Relations Committee of the Merchants' Association.

Until all-inclusive occupational disease compensation is provided, a fundamental purpose of the workmen's compensation act will remain unfulfilled; the victims of newer industrial poisons will be without remedy; and in considerable measure the preventive stimulus of workmen's compensation will be lost.

There should be some "pretty tall explaining" before another Republican legislature has opportunity to play fast and loose with this issue.

Virginia's Meager Advance

THE Virginia Federation of Labor at the 1928 legislative session endeavored to secure the adoption of urgently needed amendments to the Workmen's Compensation Act. Bills introduced to correct such glaring inadequacies as the ten-day "waiting period," the $12 weekly maximum and the 50 per cent wage scale, however, received scant consideration because the legislature refused then to pass any bill which would increase the already high cost of workmen's compensation.

Numerous conferences with leading employers in advance of the convening of the 1930 legislature failed to result in agreement on substantial improvements. Whereupon labor introduced a bill embodying its demands including a "waiting period" of seven days, a weekly maximum of $17, a two-thirds' wage scale and an extension of the sixty-day limit on medical care—a thoroughly reasonable and just program.

The bill met with bitter opposition especially from the lumber employers who fought any liberalization whatever of the existing law. But improvement in the workmen's compensation law was a pledge of the new governor and the bill was finally passed—although in a woefully modified form with a seven-day waiting period, a $14 weekly maximum, a 55 per cent scale and a limit of 180 days on medical care.

This begrudging increase indicates that the Virginia General Assembly is still unwilling to provide reasonably adequate compensation for injured workers.

Florida Forges Ahead

Interest in Workmen's Compensation Increases

STEP by step, in orderly intelligent fashion, the various communities and state organizations in Florida are making preparations for the adoption of an accident compensation law.

Close on the heels of the state conference on social work at Jacksonville, in early April, came the state labor federation convention at Miami. Both organizations made workmen's compensation a prominent feature, and the Manufacturers' Association through a special Industrial Section of the Miami *Herald* carried an article on compensation by Elizabeth A. Cooley, executive of the Welfare Board of Dade County, throughout the whole state. Prominent officials of the Chamber of Commerce, of Associated Industries and of the League of Women Voters, are now on record as favoring this legislation. Candidates for the legislature are this year announcing in advance of the June primaries that if elected they will work for a compensation law. Governor Carlton is for it and expects the bill to pass in 1931.

Florida is one of only four states without a compensation law. The others are Arkansas, Mississippi, and South Carolina.

The workmen's compensation session of the social workers convention at Jacksonville was addressed by Representative Robineau, one of the introducers of the bill at Tallahassee last year, and by John B. Andrews, Secretary of the American Association for Labor Legislation, who also addressed representative conferences arranged for him immediately afterward at St. Augustine, Daytona Beach, Sanford and Orlando. Family welfare societies, upon directing their attention to the community cost of occupational accidents, are asking why Florida charities should continue to carry this load which almost universally elsewhere is borne more justly and scientifically through accident compensation. Individual accident "case studies" are serving to dramatize the problem for the whole community.

At the labor convention an interesting note was the insistence that workmen's compensation is a humanitarian as well as a labor protective measure, that it benefits the unorganized workers, even more than the skilled mechanics who are fighting for it, and that con-

sequently **it is squarely up to the numerous religious organizations in Florida to do their fair share in support of this needed legislation.** In an informing President's Report, W. R. C. Phillips of West Palm Beach, let the light in on what happened to the bill at Tallahassee one year ago when the lumber interests of the northern counties descended upon the capitol with a powerful lobby—including certain lawyer spokesmen—to overwhelm the consistent supporters from the industrial centers. The new President, H. O. McClurg, an iron-worker of Miami, favors active organization work in all counties of the state in support of the compensation campaign.

Further educational work is needed especially in the northern counties where turpentine and saw-mill interests, employing the cheapest colored labor, have in the past resented the suggestion that accidents to their workmen should be considered one of the costs of production as in most other states. From their own accounts lumbering is a decadent industry; the requirement of accident insurance, they protest in hoary phrase would "drive this industry out of the state." But with the compensation system already in successful operation in forty-four states, and with business men refusing to invest their capital in non-compensation states where it would be subject to the needless additional uncertainties of damage suits relentlessly prosecuted by ambulance chasing lawyers, Florida sentiment is slowly but steadily growing in support of workmen's compensation. **"The existence of a workmen's compensation law is one of the means by which we judge the social status of a State," and the intelligent citizens of Florida will not much longer permit their state to linger as the most prominent black spot on the compensation map.**

Mississippi Fails to Adopt Compensation

THE 1930 Mississippi legislature had an extraordinary opportunity to enact a reasonably adequate workmen's compensation law. It failed to do so.

Workmen's compensation received a decided stimulus in Mississippi when Holt Ross, President of the State Federation of Labor, in a radio speech on December 17 explained the need for this modern legislative remedy and urged its prompt adoption. The American

Association for Labor Legislation printed this as an article[1] and widely distributed it in pamphlet form throughout the state with other material on the subject. Organized labor had earlier passed a resolution at its 1929 annual convention memorializing the legislature to enact a workmen's compensation law. Leading newspapers of the state likewise favored the legislation,[2] the *Jackson Clarion Ledger* pointing out on February 5 that "it is a sure step toward establishing a fundamental basis for industrial development when a state takes up this matter."

Prior to the convening of the legislature leading employers including outstanding lumber operators met with representatives of labor in the effort to work out a proposal that would be acceptable to those most directly affected. After numerous conferences agreement was reached on a bill which was introduced in the Senate on February 7 by Senator North. Subsequently on April 18 a companion bill was submitted to the House over the signatures of several prominent Representatives.

The bill was a reasonable and just proposal for a state which is adopting the compensation principle for the first time. The benefit provisions—including a seven-day "waiting period", the payment of 60 per cent of wages as compensation subject to a weekly maximum of $15 and a maximum limit on total amount of $6,000 for total disability and $5,250 for death—were in line with the benefits in existing laws in the South.

The leading employer spokesman earnestly urged that prompt, favorable action be taken and pointed out that "employee and employer both agree on the principle of compensation and have worked out a measure which is satisfactory to both. It is fair, it is humane and it is a great step in the social as well as economic development of our life." But the Senate committee refused to report the bill.

Two years will elapse before another Mississippi legislature will meet in regular session. Meanwhile the antiquated system of employers' liability will remain in force and Mississippi will continue to be numbered among those backward states which have failed to adopt the modern remedy of workmen's compensation.

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[1] See "Accident Compensation Needed in Mississippi" by Holt E. J. Ross, American Labor Legislation Review, Vol. XX, No. 1, March, 1930, pp. 38-40.

[2] See American Labor Legislation Review, Vol. XIX, No. 4, December 1929, pp. 384-385.

South Carolina Balks at Compensation

By Cornelius Cochrane

THE South Carolina General Assembly adjourned without voting on the compensation bill which was introduced in the Senate on the opening day of the session. Instead, a committee of three hold-over senators was appointed to study the problem and report to the Senate at the next session of the General Assembly in January, 1931.

Last fall there was every indication that this much-needed legislation would be adopted in South Carolina this year. Many legislators had expressed their approval of the principle. Leading newspapers, including the Columbia *State,* under the editorship of William E. Gonzales, and the Charleston *News-Courier,* edited by Dr. W. W. Ball, were urging prompt action. The Charleston Chamber of Commerce, voicing the opinion of local employers harassed by frequent costly damage suits, formally endorsed accident compensation and a committee was appointed to prepare a bill for introduction. Other employers, including cotton manufacturers—the most important industrial group in the state—recommended that workmen's compensation be speedily adopted. The State Federation of Labor again passed a resolution favoring the enactment of a "fair and equitable law." Governor Richards in his message to the General Assembly urged "that a workmen's compensation act be passed at the present session."

When the legislature convened in January, accident compensation was a leading public issue. Why the fiasco?

The Proposed Bill

The bill as introduced on the opening day by Senator Jefferies provided considerably higher benefits than those suggested in the proposed draft prepared upon request and widely distributed by the American Association for Labor Legislation last fall—in fact the $22 weekly maximum, the three-day waiting period and all-inclusive occupational disease coverage put the bill on a par with many of the most adequate laws in the country. Senator Jefferies explained that

he adopted this course of action in the effort to secure a united labor support and with the realization that the expected compromise would involve a reduction in the benefits in the bill as introduced.

But the Senator played into the hands of the opposition and the inevitable happened. Employers became alarmed at what they termed an unwarranted costly proposal. "Vicious" and "drastic" came readily to the tongues of those fighting the measure. They were quick to point out that the introducer came from a non-industrial county, that he intended to run for Governor in the coming-election and suggested that in sponsoring the proposed compensation legislation he was activated by "political motives."

Significant is the fact that at public hearings no employer appeared in support of a workmen's compensation bill. Among the large corporations with operations in South Carolina, in addition to numerous power companies, are the Standard Oil Company, the Virginia-Carolina Chemical Corporation, the Southern Cotton Oil Company, the International Agricultural Corporation, the Carolina-Georgia Service Company, Swift and Company. Although representatives of the textile industry—presumably favorable to the compensation principle—were present they failed to express their views to the committee. Harold A. Hatch, Vice-president of Deering-Milliken and Company with several textile mills in South Carolina, favored the adoption of the principle of compensation in an article[1] published before the legislature met, but was unable to lend his influence in support of the Jefferies bill.

The Lumber Industry

Spokesmen for the lumber industry, especially, left no doubt as to their position in respect to the Jefferies bill. In their unequivocal and sweeping denunciation of the measure wherein only an occasional trace of a willingness to compromise was manifested, these employers revealed themselves for the most part as an unsocially minded group representing a parasitic and decadent industry.

They opposed the legislation, they asserted, because the industry could not carry the additional burden of compensation insurance premiums. They raised this hoary inter-state competition argument

[1] See "Workmen's Compensation Will Benefit South Carolina," by Harold A. Hatch, AMERICAN LABOR LEGISLATION REVIEW, Vol. XIX, No. 4, December, 1929, p. 383.

even though forty-four of the states have for years been working under compensation laws!

There is apparently no question but that the lumber industry in South Carolina is in a bad way. "I have been in the lumber business for thirty-eight years," declared one well-seasoned veteran, "and these are the most gloomy times I have ever experienced." Admittedly these operators are employing the cheapest labor obtainable. Some of them are so hard pressed that they publicly confess they have actually cancelled their liability insurance policies and are conducting this extra-hazardous occupation with no accident insurance whatsoever! Nevertheless, they declare that they are running their business at a loss in order to compete with operators in other sections of the country. But lumber employers in other states who are paying premiums under workmen's compensation laws are among the competitors who have forced the South Carolina lumber industry to such straightened circumstances.

One lumberman in accounting for this rather anomalous situation argued in public hearing that labor costs are higher in South Carolina. But a recent survey of the lumber industry in the United States by the United States Bureau of Labor Statistics shows that wages paid to South Carolina employees are lower than in any other state![2] Moreover, the editor of the Anderson (S. C.) *Independent,* in an editorial commenting on the declaration that South Carolina lumber employers are "operating at a loss," explains: "That is, they are cutting and marketing their capital assets of standing timber at less than the cost of replacement." But—and again admittedly—they are not doing replacement work; they are stripping the state of one of its most important natural resources—timber—without making substantial effort at re-forestation. Virgin timber areas in South Carolina, it was testified, have practically disappeared.

Typical of some of the arguments used against the bill by the lumber spokesmen are the following: "Anyway our employees are 80 per cent negroes; as a class they are lazy and it doesn't require much imagination to see them getting injured if they know they are to get compensation." Another, commenting on South Carolina as one of only four non-compensation states, boasted: "Our state is the only one not having a divorce law and we don't want one. I am proud that South Carolina is not a 'copyist'."

[2] United States Department of Labor, Bureau of Labor Statistics, Bulletin No. 497, October, 1929.

The only employing group in the state which put itself on record at the public hearings was the lumber industry.

Support of the Bill

Representatives of the legislative committee of the State Federation of Labor were consistently present and earnestly declared in favor of a "just and equitable" compensation act. But they submitted no endorsement of any particular bill. To further confuse the situation a non-union man from Charleston was present to declare that "this bill is vicious against the employee. I want the maximum rate of payment eliminated entirely." President Patterson of the State Federation, member of the House, and labor's logical spokesman in the General Assembly, was not as active as many had expected him to be in support of workmen's compensation legislation. After the public hearings were closed, the legislative committee of the Federation finally endorsed the Jefferies bill.

South Carolina social workers were not represented at any one of the public hearings. Organizations of women voters and local civic bodies, if any, made no sign of realization that an important social question was up for consideration. The nearest exception was a brief memorandum or industrial accident case histories distributed by the Columbia Associated Charities, and the statement[3] made at public hearing by Professor William H. Wicker of the University of South Carolina Law School.

The compensation bill which was pending before the General Assembly for twelve weeks provided benefits with resulting costs which could, perhaps, be regarded as drastic for a southern state considering the adoption of the principle for the first time. It was introduced by a senator whose motive—justly or unjustly—were questioned by certain of his colleagues and no doubt by many employers. Representatives of organized labor although earnestly supporting the compensation principle delayed too long in making their demands concrete through the endorsement of a specific measure. Lumber employers, representing one of the most important industries in the state, declared unchallenged: "Pass this bill and you put us out of business."

[3] See "Court Experience in South Carolina Shows Need of Accident Compensation," by Professor William H. Wicker, AMERICAN LABOR LEGISLATION REVIEW, Vol. XX, No. 1, March, 1930, pp. 50-53.

Action Postponed

Effort on the part of Senator Jefferies early in the session to secure the appointment of a small sub-committee to consider and perfect the measure and report back to the full committee was spiked by Senator Arrowsmith, a damage-suit lawyer from Florence and the spear point of the opposition. Subsequently, the sponsor—at the suggestion of representatives of the American Association for Labor Legislation who were present throughout the committee hearings—submitted several amendments, also agreed to by representatives of labor, reducing the benefits to about on a par with the new North Carolina act. The amended measure, however,—a few days before adjournment—was committed to the committee on commerce and manufacturing—instead of the judiciary committee which conducted the hearings. The companion bill in the house—introduced by Representative Nunn who resigned to go on the Bench before the session ended—was set for argument several times but according to local reports, Mr. Patterson, the logical leader of the labor forces, and others "failed to get it under discussion" and no vote was reached.

Legislators, apparently only too willing to avoid a record vote on legislation bitterly opposed by the only employing group which publicly expressed its views, were thus given ample opportunity to dodge the issue and postpone consideration until 1931. The primary elections take place in August.

Meanwhile, workers and their dependent families are left without adequate protection in case of occupational injury or death; employers will continue to be made the victims of costly and vexatious suits for damages; lumber employers, if they choose, may still take the gamble and conduct their operations without liability insurance; and damage-suit lawyers, the principal beneficiaries of the legislature's inaction, will continue to prey on employees and employers alike under the antiquated and discredited system of suits for damages. Until organized labor is prepared to present a united front in support of a specific bill; until employers and others who profess to favor the compensation principle are ready actively and publicly to urge its adoption, South Carolina will remain a black spot on the compensation map.

That there is urgent need for workmen's compensation in South Carolina is of course apparent. That the official investigating committee will study the problem and submit a bill to the legislature in

January, 1931, is to be expected. The American Association for Labor Legislation, through its membership, will continue to cooperate in the effort to secure the enactment of a just and reasonable law.

Legislative Lassitude in Kentucky

THE Kentucky Workmen's Compensation Law, which may be ranked among the least adequate in the country, is thoroughly out of date. The latest substantial adjustment in the benefit provisions was made in 1920.

A number of amendments to effect urgently needed improvements were submitted at the 1928 session. But the legislature refused to make any changes in the law. Instead it created a commission of six members to investigate and report in regard to "the present workmen's compensation act and any defects therein, amendments thereto or bills which they desire to recommend to the 1930 General Assembly."

The commission had two years in which to study the law and make its recommendations. Several public hearings were held and on January 28, 1930 the official bill embodying the recommendations of the commission was submitted to the legislature.

Prompt action in adopting the measure was of course expected. The Senate approved the bill on February 26 and sent it to the House. On the last day of the session, the House passed the bill but with amendments in which the Senate at that late hour did not concur. The bill is dead. Meanwhile, for another two years at least, dependents of killed workmen in Kentucky will be "protected" by a law which provides in death cases the munificent sum of $12 as a weekly maximum with a limit of $4,000 on total amount!

The "official investigating commission" as a means of postponing action on urgently needed social measures is a form of tactics utilized only too often. By failing to carry out in 1930 the recommendations of its own investigating commission in respect to a problem long neglected, the Kentucky General Assembly has raised doubt as to its genuine interest in a just and adequate compensation law.

"Ambulance Chaser" Disbarred

Silas B. Axtell, Seamen's Union Counsel, Takes Judicial Count

SILAS B. AXTELL, a New York lawyer who has specialized in negligence cases for injured seamen—accused of ambulance chasing as a result of the inquiry by the bar associations before Supreme Court Justice Wasservogel—was disbarred by the Appellate Division on May 2 for soliciting cases and because of the unethical methods he used in advertising for business.

The Court's opinion, written by Presiding Justice Dowling, covers twenty-three typewritten pages of scathing arraignment. "His solicitation of business was brazen in its effrontery and his self-glorification in point of his professional ability was nauseating," wrote Justice Dowling.

Axtell, for years, has been an important factor in keeping the seamen's union opposed to workmen's compensation legislation. He attempted, without success, to extend this obstruction to the longshoremen when the American Association for Labor Legislation was cooperating with them in the victorious campaign of 1927, which resulted in the enactment by Congress of the federal Longshoremen's and Harbor Workers' Compensation Act. He has, for reasons of his own, continued to favor the damage suit system.

Two years ago this same Axtell, having disagreed with Paul Douglas and others concerning what they had observed together during an un-official mission to Russia, wrote a letter to the American Association for Labor Legislation, of which Douglas was an officer, insinuating that it might be getting money from Moscow!

Many of the Bar Association charges against Axtell centered around his Seafarers' Thrift and Protective Co-operative organization, which it is reported was founded by Axtell, financed by him and officered by his employees. "That this organization was intended entirely for the benefit of seamen is doubtful," concluded the Court. "We are reluctant to believe that respondent was guilty of withholding funds," said the court, "and accept the explanations that it was due to clerical carelessness."

"Taking the most charitable view of respondent's professional conduct, he has been impressed with an exaggerated view of his own importance which has led him to think he was authorized to do things which in an ordinary practitioner would have been regarded as highly improper." The Court concluded that "he has pursued these practices too long and too often to escape punishment for his continued violations of the ethical requirements of his profession."

Wherever the damage suit system persists, as in Arkansas, Florida, Mississippi and South Carolina, as well as among seamen and railway employees in interstate commerce, the disadvantages of the system, to workmen, to employers, and to the whole community, are a constant argument for the adoption of workmen's compensation legislation.

Mississippi "Ambulance Chasers"

"ONE of the major subjects for consideration at this session of the legislature is the enactment of a workmen's compensation law.

"The time is ripe for Mississippi to join with other enlightened states in the handling of this problem. Too long have we allowed damage suit lawyers to fatten on the unfortunate victims of accidents. A workmen's compensation law will cut down their business, of course, but the welfare of the worker is far more important than a fat purse for the fee grabber."—Jackson (Mississippi) *News*.

Congress Passes Rehabilitation Bill

THE federal vocational rehabilitation bill introduced by Mr. Reed of New York and favorably reported with amendments on February 24,[1] was passed by the House on April 28. In the Senate, it was referred to the Committee on Education and Labor.

This important measure provides for a continuance, during the next three years, of federal-state cooperation in the work of salvaging industrial cripples. As passed by the House, an appropriation of $1,000,000 is authorized to be distributed among the cooperating states on a dollar for dollar basis; and an additional $100,000 is provided for the expenses of the Federal Board of Vocational Education in administering the act. This represents an increase of $25,000 for administrative expenses, but the amount going to states annually is the same as authorized in the act of 1924 which will expire on June 30. The bill provides, however, that the minimum allotment to any state shall be $10,000, instead of $5,000 as in the present law.

Few pieces of social legislation have demonstrated their economic soundness as well as their humanitarian worth so completely as have the vocational rehabilitation laws, state and federal. The retraining of cripples who would otherwise be lost to industry and become burdens upon the community is sound social policy. Only four states—Delaware, Kansas, Vermont and Washington—have failed to cooperate with the Federal Government in this work. Moreover, as pointed out by representatives of the American Association for Labor Legislation at the hearings before the House committee on January 20, the rehabilitation laws are as a rule administered by persons of high qualifications.

The passage of the Reed bill in amended form by the Senate on May 23 gives final assurance that this work will be continued.

[1] See "Vocational Rehabilitation Legislation", AMERICAN LABOR LEGISLATION REVIEW, Vol. XX, No. 1, March, 1930, p. 63.

OLD AGE PENSIONS

UNDER the **California old age pension act,** enacted last year and effective on January 1, by February 19, thirty-eight old age pensions had been paid by San Francisco County. It is expected that seven hundred pensioners will soon be on the list.

◇

ONLY eight out of every hundred persons who applied for admission to the **77 old folks homes** in and near New York City during the last two years were admitted, and then only after a wait of one to eighteen months, according to the Welfare Council of New York City. The New York old age security law, enacted this year, is expected to cut down the present long waiting lists.

◇

A LAW enacted in New Jersey this year prohibits the state or any subdivision thereof to **discriminate in employment** against any person forty years of age or over. Police and fire departments and guards of penal institutions are excepted. The same law provides that any person forty years of age or over accepting public employment will be ineligible to join any pension fund maintained by the state or any county or municipality thereof.

◇

A FIFTEEN-PAGE pamphlet succinctly **answering objections** advanced against old age pensions has been published by the Fraternal Order of Eagles. Threadbare arguments, such as claims that old age pensions discourage thrift, are more costly than the poorhouse system, and are new and untried, are clearly refuted.

◇

"I AM convinced that one of the factors in the very large increase in industrial accidents in the State of New York in the past two years has been the practice of laying off or failing to reemploy the **older and more experienced men** and using young unskilled or semi-skilled workers at jobs beyond their capacity for good judgment and safe practice."—*New York State Industrial Commissioner Frances Perkins.*

—Railroad Trainman

It Would Be a Welcome Detour!

The hearings on the **federal old age pension bills** before the House Committee on Labor have been printed, making a 343 page document. The volume contains not only statements by the proponents and opponents, but also the texts of the federal proposals and of all existing state old age pension laws. Of particular interest, too, is a report on old age dependency and the care of the aged especially prepared for the Committee by the Bureau of Labor Statistics. This appendix to the printed hearings includes an analysis of the principal public old age insurance and pension systems in foreign countries.

◇

In 1930 the **life expectancy** of the 20-year-old industrial worker in the United States is five years longer than it was in 1913, according to a study of policyholders in the Industrial department of the Metropolitan Life InsuranceCompany, made by Louis I. Dublin and Robert J. Vane, Jr., for the United States Bureau of Labor Statistics. It would be en-

lightening to know in how many cases these additional five years will be spent in economic security.

◇

A MAXIMUM **hiring age limit** of 48 years has been fixed by the United States Civil Service Commission for unskilled and skilled navy yard employees. The Commission explains that this was done because the law now requires such workers to be retired at 65, with the result that only those employed at 50 or younger will be eligible for pensions under the 15-year service requirement.

◇

"WHAT chance has a young woman of 33?" asks a letter printed in the *Brooklyn Eagle*. "Though I am a good stenographer and secretary, have had five years' experience, am punctual and make a good appearance, I am constantly turned down on account of age."

◇

"IN 1930, it is estimated that there will be 28,670,000 persons **45 years of age and over,** in the United States, of which 15,120,000 will look to some gainful occupation for support. It must be evident to you, as it most assuredly is to me, that we are up against a problem of human engineering which calls for prompt and true action."—*Roderic Olzendam, Director of Industrial Relations, Metropolitan Life Insurance Company.*

◇

EVIDENCE of the general concern regarding the wide prevalence of an **age-barrier** in industry is seen in the numerous publications recently issued on the subject. A 34-page memorandum on *Age Limitations in Industry* has been compiled by the Industrial Relations Section of Princeton University. The Welfare Council of New York City has published a 52-page bibliography on *Employment Handicaps of Older People.* The California Department of Industrial Relations, "with a view to enlisting the cooperation of California employers against adopting employment policies based solely upon the employee's age," has issued a 35-page bulletin on *Middle-Aged and Older Workers.* And the American Management Association has issued a 42-page brochure on *The Employment and Adjustment of the Older Worker.*

◇

OLD AGE **pensions are imperative** in the United States, stated Alice Belcher, Professor of Economics at the Milwaukee Downer College and a member of the American Association for Labor Legislation, in an address at the Milwaukee Unitarian Church.

◇

IN three Minnesota counties—Hennepin, Ramsey and St. Louis—the question of old age pensions will be submitted to referendum. The state's three largest cities—Minneapolis, St. Paul and Duluth—are located in these counties.

New York Enacts Old Age "Security"

ON April 10, the New York act "to provide security against old age want" was signed by Governor Roosevelt in the presence of a large delegation of its supporters, including representatives of the Fraternal Order of Eagles and the American Association for Labor Legislation. This law marks one more significant advance toward a more humane treatment of the non-institutional aged poor in America.

By the enactment of this law, the most important industrial state in the country has recognized the principle underlying all state old age pension systems, which have for years been advocated by the American Association for Labor Legislation and which have already been adopted by ten states and Alsaka. "The care and relief of aged persons who are in need," the New York law declares, is "a special matter of state concern." And a state-wide, compulsory system of relief is inaugurated which aims to protect the aged from the disgrace of the poorhouse.

This law, as worked out by the New York Commission on Old Age Security,[1] authorizes county and city public welfare districts to administer "relief" to persons seventy years of age and over: (1) who are United States citizens, (2) who have been residents of the state for ten years and of the district for one year immediately preceding application, (3) who are unable to support themselves either in whole or in part, (4) who have no children, or other person able and required by law to support them, and (5) who are neither in institutions nor in need of institutional care.

The relief to be given such persons is described in Section 124:

> It shall be the duty of public welfare officials to provide adequately for those eligible for old age relief under the provisions of this article. The amount and nature of the relief which any such person shall receive, and the manner of providing it, shall be determined by the public welfare official with due regard to the conditions existing in each case, in accordance with the rules and regulations made by the state department. Relief may include among

[1] The Commission's conclusions and recommendations were printed in the March, 1930, issue of this REVIEW under the title "New York Commission Recommends Old Age 'Security'". The full report of the Commission is even yet not published, but the law is on the statute books.

other things, medical and surgical care and nursing. Whenever practicable relief may be granted in the form of cash or check. The relief granted under this article shall whenever practicable be provided for the recipient in his own or some other suitable family home.

Provision is also made for the periodic reconsideration of the relief granted in any particular case.

The cost of carrying out the provisions of this law are to be borne in the first instance by the city or county welfare district. Half of the amount expended for relief and for the travelling expenses of district welfare officials will, however, be reimbursed by the state, together with half of such other district expenses as may be allowed. The administration of the law by district welfare officials is subject to supervision by a newly created bureau within the state department of social welfare. The law went into effect on May 1, 1930, but relief will not begin to be paid before January 1, 1931.

In the New York law, which was admittedly a compromise measure, there are certain departures from the Standard Old Age Pension Bill which was drafted in 1922 by the American Association for Labor Legislation and the Fraternal Order of Eagles. While the New York law safeguards the aged against the poorhouse, it is not clear that it wholly removes the stigma attaching to poor relief. This was done in the Standard Bill by separating both state and local administration of the old age pensions from the administration of pauper relief, and by specifically providing that the assistance granted shall be a pension. The New York law, while very similar in some respects, fails to make these important distinctions. Its success or failure to accomplish the purposes of old age pension legislation will therefore depend to an unusual degree upon the spirit and wisdom with which it is administered.

The operation of this law will be watched with interest by members of the American Association for Labor Legislation and by all others who desire adequate provision for the self-respecting aged poor.

"More and more physiology rather than the mere passage of time, is determining the usefulness of man," states Dr. Appel, secretary of health of Pennsylvania. "Some men are actually ancient at fifty-five, while others possess middle age vigor and appearance at seventy."

Progress in Old Age Pensions

PROGRESS in old age pensions can not only be measured by laws actually enacted. The number of old age pension bills introduced and the interest and discussion provoked by their introduction are also sign posts pointing to progress. For they reflect the growing recognition that the state is morally obliged to care for its aged dependents, and mean that the groundwork for future legislation is being laid.

By April 20, in seven of the eight state legislatures meeting in regular session this year old age pension bills had been introduced.[1] These bills varied from measures designed to combine the best features of the California and Wyoming laws, enacted last year, to bills creating commissions merely to continue or duplicate the investigations of previous years. In two state legislatures—New York and Massachusetts—as many as three and four pension bills were introduced, while in regular legislative sessions of three southern states—Kentucky, Mississippi and South Carolina—the problem of old age dependency was totally disregarded.

Straight Old Age Pension Bills

Eleven straight old age pension bills were introduced in six states. The significant new trend in these bills is their provision making pension systems statewide and compulsory.[2] Nine bills, introduced in New Jersey, Rhode Island, Virginia, Massachusetts and New York, specify that *every* aged person in the state who fulfills certain qualifications—is a United States citizen, is 60, 65 or 70 years of age or over, and whose property does not exceed $3,000 or $5,000 in value, or whose annual income is not more than $300—is entitled to a pension not to exceed $1 a day. Pensions would either be paid by the state or be shared by state and county or city.

These bills—based on the "Standard Bill" of the Fraternal Order of Eagles and the American Association for Labor Legislation and already enacted with successful results in ten states and the Territory

[1] Louisiana has been omitted from consideration as its legislature did not convene until May 1.

[2] This provision was first incorporated in the California and Wyoming old age pension laws. Previous to their enactment, county option was a feature of state laws.

of Alaska, were fated, with four exceptions, to die in committee. In only one state—New York—did a bill pass. The measure enacted by the "Empire" state, while unfortunately inadequate in certain provisions, marks a significent advance.[3] In Massachusetts, after hearings were held on three bills, the Committee on Pensions reported a bill providing for "adequate assistance" to citizens seventy years of age or over. Later, a redraft of this bill was passed by both houses of the legislature.

Bills Directing Commission Investigations

Despite the fact that the pension bill introduced in New Jersey stated that this legislation "is a duty that New Jersey can no longer deny," another bill in the same state providing for a commission to study the relief of old age dependency and public pension acts was passed by the legislature. Inasmuch as a Commission on Old Age Insurance and Pensions already exists in New Jersey and as this Commission in its 1929 report condemned the existing almshouse system stating that "the indigent aged poor who are well * * * should receive state or county aid," it is difficult to see what further study is required.

Two bills in Rhode Island also creating commissions to investigate state pension systems were summarily defeated, together with the bill establishing a state pension system. These bills had been referred back by the state Commissioner of Finance, Frederick S. Peck,[4] to the House Finance Committee with disapproval. A year ago last March the same commissioner, when explaining his failure to investigate the subject of old age pensions, (as directed by specific law), said: "It (the state) is totally unfit to undertake a minute inquisitorial inquiry into the means and circumstances of the great masses of the poorer population." And "a universal pension system with the rankest kind of class legislation may result"!

A bill passed in Virginia merely authorizes corporations to grant pensions to their former employees.

The number of old age pension bills introduced this year indicates that the demand for old age pensions is steadily gaining more impetus. States that failed in 1930 to enact this legislation cannot much longer afford to isolate themselves from this movement.

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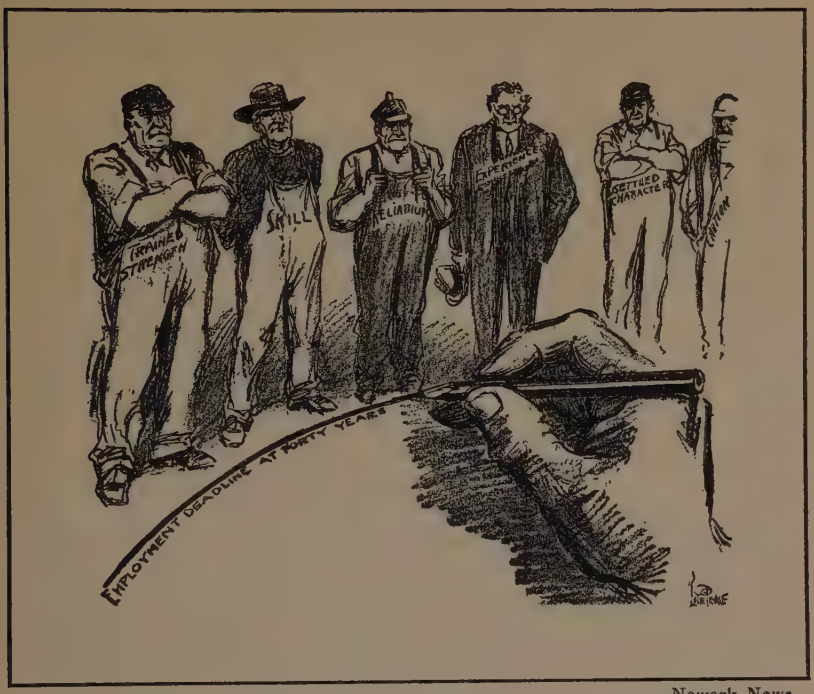
[3] See p. 209 of this Review.

[4] Mr. Peck is a director of the Rhode Island and Guarantee Insurance Companies.



—Newark News

Drawn Blindly

Old Age Pensions Don't Discourage Thrift Says Canadian Official

Old age pensions do not discourage thrift, according to E. S. H. Winn, chairman of the Workmen's Compensation Board, which administers the old age pensions act of British Columbia.

"A pension of $20 a month, though slight, is sufficient to give the old people an independent standing in the homes of their relatives who are often hard pressed to earn a living for themselves," he says. "Many of the older men and women have been enabled to leave the almshouses and have returned to the homes of their children since the payment of pensions began. A surprisingly large number of pensioners are eager to engage in some work despite the fact that their earnings are deducted from their pensions."

N. A. M. Raises Smoke-Screen in Fight on Pensions

A PAMPHLET recently issued by the National Association of Manufacturers in an attack upon "public old age pension" is a glaring example of a type of opposition which advocates of public welfare legislation must continually expect from selfish private interests. The arguments presented are based upon a show of figures and factual assertions which clearly will not bear scrutiny.

Noel Sargent, "manager of the industrial relations department" of the N. A. M. is responsible for the biased "economic analysis" presented. Mr. Sargent re-hashes much of this from a public hearing at Washington. He estimates the cost of old age pensions on the basis of a dollar a day for every dependent person sixty-five years of age and over in the United States. He infers that this is a fair method of estimating the cost of a public old age pension system. But he must realize that a large proportion of these dependents will always be cared for by their children, that another sizable group must have institutional care, and that these two groups would not be eligible to pensions under the proposed laws. He knows also that many of the remaining dependents have at least some income and consequently would not receive the entire dollar-a-day pension. But Mr. Sargent was looking for a large cost figure, and he therefore ignored these essential considerations.

He also argues that a public old age pension system is "paternalistic" and injurious to "individual virtues." But in the same analysis he describes with approval the private penson grants made by a few of the more charitable members of the N. A. M. to their faithful employees. The reader may judge which is the more dangerous form of "paternalism." Of course, the shelf-worn phase "entering-wedge-of-socialism," like a dilapitated red herring was dragged incessantly across the hearing room.

The majority of the public, especially since the unsavory Mulhall exposure which some years ago turned a pitiless blaze of light upon the legislative methods of the National Association of Manufacturers, will hardly be misled by this latest camouflage.

Another Utah Mine Explosion

ON February 6, 1930, an explosion occurred in the No. 3 Mine of the Standard Coal Company at Standardsville, Utah, as a result of which 23 coal miners were killed. They left 18 widows, and 38 children—25 boys of an average age of 5½ years and 13 girls of an average age of 7 years.

Workmen's compensation payments will approximate $90,000, and the mine property was damaged to a considerable extent. Rock dusting helped in localizing the explosion and "prevented much greater loss." The Standard Coal Company was a self-insurer, with unlimited re-insurance, in excess of $20,000, with the General Reinsurance Corporation of New York.

Reports by expert investigators are in substantial agreement that a coal cutting machine ignited a body of gas which had accumulated due to a short circuit of the ventilating system, and that the Company was blameworthy.

Recommendations by three mining supervisors of the United States Geological Survey who comment upon the rock-dusted portion of the mine as having "played a very important part in retarding the force of the explosion," urge that rock dust barriers also be erected in all openings between sections of the mine, that all old working also be rock dusted or sealed off, that all active workings be rock dusted within fifty feet of the working face, that ventilation be made effective at all times, and finally, that the state mining laws be rigidly enforced.

Utah coal mines are particularly subject to coal dust explosions owing to the unusual dryness of the coal, as explained by Commissioner O. F. McShane last summer at the San Francisco meeting of the American Association for Labor Legislation. (See this REVIEW for September, 1929.) This disaster in 1930 recalls the Castle Gate, Utah, horror of 1924, which killed 172 miners. (See this REVIEW, March, 1924.)

"America is in shape to produce in five days all she can consume in seven, with a lot left over for export. That being so, *the five-day week*, in my judgment, should become the rule in America with as little delay as possible."—*John J. Raskob.*

The Shame of Kentucky!

APPARENTLY social advance in the "Blue Grass State" suffers much from what is sometimes called **partisan influence**—both political and industrial. And the soft coal industry, largely unorganized as to labor but thoroughly girded up to fight against safety legislation, is still able to dictate public policies.

Recalling earlier failures of the Kentucky legislature to adopt reasonable measures for the prevention of occupational accidents, drafts of carefully considered bills were placed before Governor Flem Sampson a month before this year's legislature met. It was pointed out to him then that authorities agree that simple effective precautions can and should be taken to protect both human life and property from destruction by explosions. "Is it not better," he was asked, "to take this practical precaution while the legislature is in session than to have it pointed out, following a terrible mine catastrophe, that these human lives were needlessly destroyed?" It was hoped that Governor Sampson might be inclined to recommend, for example, such sound measures as those designed specifically to prevent coal mine catastrophes due to coal dust explosions.

But no! Instead, in his official message he actually proposed that in future the state's mine inspectors be compensated by fees to be collected from the mines they inspect!

The Kentucky legislature met, and finally the legislature adjourned for another two years.

Then on March 29, sixteen miners were trapped a mile and a half back under the rugged hills in a mine of the Pioneer Coal Company, at Kettle Island. "The explosion," wired the Associated Press, "is believed to have been caused by dust." It tore out the brattice work, and filled the tunnel entrance with debris. "It wrecked the interior of the mine," said one report which also commented on the families of dependents left by fifteen of the sixteen entombed miners.

How would you feel if you were Governor Flem Sampson of Kentucky?

On March 10, eighty-seven miners were rescued from the blazing Wolf Run Mine of the Warner Collieries near Amsterdam, Ohio, after 89 had been trapped 6,000 feet from the surface. Two were killed and several were injured.

Another Washington Disaster

A COAL dust explosion in the Carbondale mine of the Pacific Coast Coal Company, on April 12, killed 17 miners, leaving 13 widows and 28 dependent children. "The mine was not rock dusted nor do the laws of this state require rock dusting of our coal mines," writes the Chief Mine Inspector.

"Since every person in that section of the mine perished, no one was left to give any details."

"After the bodies of the unfortunate victims had been removed from the mine," says the official Department of Labor and Industries report, six days later, "a party consisting of the Mine Safety Committee, mine officials, representative of the United States Bureau of Mines, and state mine inspectors entered the mine and made a thorough examination." Later, the most prominent mining men in the state and the chief mine inspector of British Columbia made a minute inspection. Then they held a meeting in the mine office. Each was called upon to give his personal opinion as to the cause of the explosion and to give suggestions as to preventive measures. "Each responded cheerfully and the consensus of opinion was that the explosion was caused by too heavy a charge of powder going off and creating a dusty atmosphere." Suggestions offered included rock dusting. "All such constructive suggestions were welcomed by the officials of the company," and the meeting was informed that "rock dusting had been under consideration by the officials of the company for sometime."

Will the Washington legislature, at its next regular session in 1931, require the rock dusting of coal mines?

Roll of Honor of Coal Companies Using Rock Dust to Prevent Coal Dust Explosions

WHEN in December, 1922, after calling attention to the increasing toll of lives in coal mine disasters, the American Association for Labor Legislation opened its present campaign for the adoption of preventive measures, it was able to secure from federal and state official sources the names of only three coal companies in the United States and Canada that were using rock dust to prevent coal dust explosions. As the campaign has

progressed during the past seven years, the Association has been informed of the installation of rock dusting methods by at least 332 additional companies—some of these companies operating as many as twenty mines. Legislation providing for the use of rock dust in coal mines has now been enacted in seven states.

The full list of coal companies that have equipped one or more of their mines with the rock dust safeguard, or have begun to install it, appears in this REVIEW for December, 1928, pp. 424-427. Additions were made to the list, as of February 1, 1929, in the March, 1929, issue, p. 117; as of April 1, 1929, in the June, 1929, issue, p. 174; as of August 1, 1929, in the September, 1929, issue, p. 317; as of November 1, 1929, in the December, 1929, issue, p. 472; as of February 1, 1930, in the March, 1930, issue, p. 88. As of April 1, 1930, the following are added:

KENTUCKY—Clover Splint Coal Company; Cornett-Lewis Coal Company.
MONTANA—North Western Improvement Company.
PENNSYLVANIA—Pennsylvania Salt Coal Company.
WEST VIRGINIA—Hutchinson Coal Company; Carbon Fuel Company; Branch Coal and Coke Company; Bailey Wood and Coal Company; Cannelton Coal and Coke Company; Daniels Coal Company; Elm Valley Coal Company; Glenwood Smokeless Coal Company; Imperial Colliery Company; Mill Creek Colliery Company; Milburn By-Product Coal Company; The Pocahontas Corporation; Stuart Colliery Company; Slab Fork Coal Company; White Oak Fuel Company; West Virginia Penitentiary.

"Burned to Cinders"

"THE mine was only partially rockdusted; they are now applying rock dust throughout," is the report from Arnettsville, West Virginia, where on March 26 an explosion in the Yukon Mine of the Crown Coal Company killed twelve miners who were working near the point where gas was ignited. The blast occurred about a mile back from the entrance and "the miners were enveloped in flame." Very little damage was done to the mine property; it is estimated that this financial loss will be less than $2,000. Fortunately, also, the explosion occurred at 2 A. M., with only the small night crew of loaders in the mine. About 200 workers are employed underground during the day. This disaster was only one-half mile from the Everettsville mine of the New England Coal Company, where four years ago 102 miners were killed.

Longworth Releases "Lame Duck" Bill

THE Norris resolution to abolish the short term of Congress which was passed by the Senate nearly a year ago has, after extraordinary delay, been referred to committee by Speaker Longworth, but only after Senator Norris had introduced a resolution in the Senate to investigate its status in the House.

The Senate passed this so-called "lame duck" resolution on June 7, 1929, and it was sent to the House on the following day. Since that time it has for nearly a year rested on the Speaker's table! Apparently the request by Senator Norris on April 9 that there be an investigation prompted Speaker Longworth to take action, for, on April 17, he announced that he was referring the "lame duck" resolution to the House Elections Committee which had recently reported out a similar House resolution.

The Speaker's excuse for the delay was merely that he had been waiting for the House to adopt a rule that resolutions involving constitutional amendments should be referred to the Judiciary Committee instead of the Election Committee. It being evident that this action would not be taken, he announced that he would now refer the resolution to the Elections Committee.

Whereupon, Mr. Howard, of Nebraska, arose to apologize for having recently declared to the House that the Norris "lame-duck" resolution was being choked to death by a hostile committee. "I did not know," he concluded, "that it was being choked by other hands."

The American Association for Labor Legislation has repeatedly urged the passage of this "lame duck" proposal,[1] which would bring a new Congress into action in two months instead of thirteen months after its election, and also promote legislation without the so-called filibuster.

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[1]See AMERICAN LABOR LEGISLATION REVIEW, Vol. XVIII, No. 4, December, 1928, p. 398; and Vol. XIX, No. 4, December, 1929, p. 416.

A Loyal Member Responds

ANY one who thinks members of the American Association for Labor Legislation do not "act when organized expression is needed" may ponder the following letter which came to headquarters in response to a circular appeal to write the members of a committee of the Legislature in support of a pending bill. Loyal cooperation of this kind makes the Association's work effective:

"Your letter of March 14 reached me late, on Monday the 17th, and I did not at once realize its urgency. That afternoon I went to a matinee with my sister, but after dinner wrote my seventeen letters, each individual, with my own fingers. I have no office or stenographer now, and the notation FA/SE was camouflage for FA/SELF. (Would Richard Cabot have done that?) When finished, I took them personally to our central post office, two miles off, and mailed them soon after 11 P. M. to catch the night train.

"I tried to make them brief and pungent, and hope they helped.

"I also hope to see you at the Boston Conference. * * * I go on also for my Fiftieth at Harvard, a week later.

"My, how very old I am!

"But there's life in the old dog yet."

Coming Conferences

Official International Labor Conference: Geneva, Switzerland, June 10—.

National Conference of Social Work: Boston, Massachusetts, June 8-14.

American Association for Labor Legislation (Mid-Year Meeting): Boston, Massachusetts, June 8-14.

International Congress on Workers' Leisure: Liége, Belgium, June 7-10.

International Association of Public Employment Services: Toronto, Ontario, September 9-12.

International Association of Industrial Accident Boards and Commissions: Wilmington, Delaware, September 22-26.

National Safety Council: Pittsburgh, Pennsylvania, September 29-October 4.

American Federation of Labor: Boston, Massachusetts, October 6—.

American Public Health Association: Fort Worth, Texas, October 27-30.

Taylor Society: New York, December 3-5.

American Association for Labor Legislation (Annual Meeting): Cleveland, Ohio, December 29-31.

INTERNATIONAL LABOR LEGISLATION

At the regular session of the Governing Body of the official International Labor Office in April, an attempt was made by Sweden and by employer representatives to secure the revision of certain important provisions in the **Eight Hour Day Convention.** Although need for some amendments was unanimously recognized, representatives of the Workers' Group were vigorously opposed to opening the way at this time for a general revision which might weaken the Convention and also delay ratification by other countries. Final decision was deferred to the June session.

◇

THE Agenda of the General Session of the official **International Labour Office,** Geneva, June 10, 1930, will be devoted to hours of work in coal mines, work hours of salaried employees, and forced labor.

◇

A STUDY of women in industry recently made by the British Home Office concludes that the general legislative restrictions on the **employment of women** have had very little influence on their distribution in industry. Except in a few isolated cases there is little evidence that they have handicapped women in the past or are handicapping them in the present.

◇

A ROYAL DECREE in Italy, dated December 9, 1929, entirely prohibits "the intermediation, even if free of charge, of private persons, associations, or bodies of any kind for the placing of **unemployed workers** in employment" in respect of all categories of employers and workers for which public employment exchanges are established and within the territory for which those exchanges are competent.

◇

NETHERLANDS wage-earners are provided with one of the most advanced **social insurance systems** in Europe through the new "Sickness Act" and the "Invalidity and Old Age Insurance Act of 1913."

In Japan, advertising is not the only way in which radio broadcasting serves industry. The Tokyo Central Broadcasting Station, in cooperation with the Central Employment Exchange Office, has since September included data on the condition of the **labor market** in the daily broadcasting program. Such information relates to the nature of available positions, number of persons wanted, remuneration, age and other qualifications, and the employment exchanges to which applications should be made. Statistics on general conditions of the labor market, supplied by employment exchanges, are frequently broadcasted. It is reported that this experiment has had favorable results in coping with unemployment and that the practice will be continued.

◇

Argentina and Great Britain have signed a **reciprocal treaty** whereby each grants to the nationals of the other the right to all workmen's accident indemnities just as though they were citizens or subjects of the country in which the accident occurs. These rights are not cancelled by the injured workman leaving the country after his injuries; and in the case of accidental death his heirs are entitled to indemnities even though not living in the country where the accident occurred.

British Unemployment Insurance, 1930

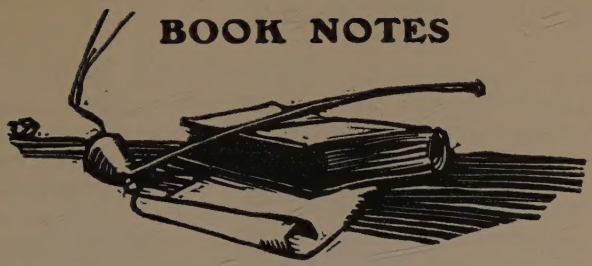
THE British Unemployment Insurance Act of 1930 became effective on March 13 and will continue in operation until June 30, 1933.

An important change is the repeal of the provisions of the old law which required the claimant to prove that "he is genuinely seeking work, but unable to obtain suitable employment." The new act provides that claimants will be disqualified for benefit if it is proved that, without good cause, they have refused or failed to apply for a suitable job, or have failed to carry out any written directions given them by an officer of the employment exchange with a view to assisting them to find suitable employment. The machinery for deciding claims to benefits is also remodelled in the interest of the unemployed.

The act provides that the age for entry into the unemployment insurance system shall be reduced from sixteen to fifteen as soon as the school-leaving age is raised to fifteen. The weekly benefit rates for unemployed persons under 21 are fixed at 6s. for boys of 15 and 16; 9s. for boys of 17; 14s. for boys of 18, 19 and 20; and 5s., 7s. 6d. and 12s. for girls of the corresponding age groups. At the age of 21, the adult rates of 17s. and 15s. respectively become payable. The rate of allowance for a wife or other adult dependent is increased from 7s. to 9s.

The Act also raises the grant from the Treasury to the insurance fund from £12,000,000 to £26,500,000.

BOOK NOTES



America Looks Abroad. By Paul M. Mazur. *New York, The Viking Press, 1930. 299 pp.*—An excellent, readable analysis of the financial and industrial relationship between Europe and America presented from a popular viewpoint.

Cost of Living Studies, II. By Jessica B. Peixotto. *Berkeley, University of California Press, 1929. 245 pp.*—A study of the incomes and expenditures of eighty-two typographers' families which invalidates the time-worn argument that wage-earners who command increased wages promptly display empty extravagance.

The Filene Store. By Mary La Dame. *New York, Russell Sage Foundation, 1930. 541 pp.*—One of a series of investigations made by the Department of Industrial Studies of the Russell Sage Foundation in order to "lay a fact basis for better human relations in industry." In the Filene store, Boston, employees, through their own organization, manage provisions for sick benefits and medical examinations; and at the end of the period covered by the study a committee was engrossed in preparing a pension plan. Though limited, the coöperative experience of this store, states the study, "demonstrates the desirability of giving attention to the selection, training and good-will of employees."

The Money Value of a Man. By Louis I. Dublin and Alfred J. Lotka. *New York, Ronald Press, 1930. 264 pp.*—A compilation of data bearing on the financial interest that dependents have in their breadwinner. Brings this information up-to-date and adapts it to American needs. Three chapters—on the Burden of the Handicapped, the Valuation of Compensation for Personal Injury and Diseases, and the Depreciation of the Economic Value of the Individual—will be of especial interest to students of labor.

Proceedings of the National Conference of Social Work, San Francisco, June 26-July 3, 1929. *Chicago, Chicago University Press, 1930. 682 pp.*—These addresses delivered by prominent leaders in social service work at the fifty-sixth annual session of the conference give up-to-date information

on economic and social problems. Two of the addresses, by F. C. Gregory and Will J. French, appeared in the AMERICAN LABOR LEGISLATION REVIEW for September and December, 1929, respectively.

The Labor Injunction. By FELIX FRANKFURTER and NATHAN GREENE. *New York, MacMillan, 1930. 343 pp.*—This book is a distinct contribution to the understanding of what is undoubtedly the most contentious issue in employer and employee relations. The origin and the development of the labor injunction, its uses and abuses are fully and carefully scrutinized. A much needed discussion of legislation affecting the injunction discloses a record of legislative ineffectiveness which leads the authors to assume "that public opinion, sufficiently strong and informed, does not care enough about these measures or that such opinion is incapable of translating its purposes into law." Continuing with an analysis of the proposed federal legislation now pending in Congress it is urged that the principles embodied in the bill should be translated into law. The book is not limited to a purely legal discussion—the sociological, psychological and economic considerations involved are adequately presented. It is commended to laymen as well as lawyers who are concerned with this serious and increasingly acute problem.

The American Year Book. EDITED BY ALBERT BUSHNELL HART AND WILLIAM M. SCHUYLER. *New York, American Year Book Corporation, 1929.*—This valuable reference annual, of which the present volume is the 1929 edition, contains a comprehensive "record of events and progress for the year," with chapters on immigration and population, social problems, and labor legislation. Forty-six national learned societies, including the American Association for Labor Legislation, cooperated in its preparation.

The Practice and Procedure of International Conferences. By F. DUNN. *Baltimore, The Johns Hopkins Press, 1929. 229 pp.*—A well written introduction to the study of conferences as instruments of international collective action. The author traces historical development of common types of international conferences, and very ably summarizes current practices. From the chapter on non-political conferences it would appear that the procedure of conferences on economic and labor problems has been especially efficient.

Income and Wages in the South. BY CLARENCE HEER. *Chapel Hill, University of North Carolina Press, 1930. 68 pp.*—An interesting statistical study which strikingly shows that money incomes and wages in the South are appreciably lower than in the rest of the country—and that the average per capita income of the southern agricultural classes is about one-half of that received by similar classes in the rest of the country. The expected result, says the author—a flow of labor from agriculture to manufacturing, and to the high wage industrial centers of the North—is borne out by such scant statistical evidence as is available.